

Final Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT
REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Independent School Program Approval Rules

/s/ Jennifer Deck Samuelson

(signature)

, on 4/26/2024

(date)

Printed Name and Title:

Jennifer Deck Samuelson, Chair
State Board of Education

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary

1. TITLE OF RULE FILING:

Independent School Program Approval Rules

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

23P 037

3. ADOPTING AGENCY:

State Board of Education

4. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Jennifer Deck Samuelson

Agency: State Board of Education

Mailing Address: 1 National Life Drive Davis 5,
Montpelier, VT 05602-2501

Telephone: 802-828-0047 Fax: 802-828-6430

E-Mail: jennifer.samuelson@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://education.vermont.gov/state-board-councils/state-board/rulemaking>

5. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Sarah Buxton

Agency: Special Counsel - State Board of Education

Mailing Address: 44 East State Street, Montpelier, VT
05602

Telephone: 802-223-1112 Fax: 802-223-6225

E-Mail: sarah@tarrantgillies.com

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) Yes

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

16 V.S.A. 166 (b) (8) (c)

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

Information not already in the public domain that is provided to the Agency and Board by independent schools as part of the approval and continued approval process

is exempt from public inspection and copying and shall be kept confidential.

7. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

16 V.S.A. §§ 164(14), 166; 2958(e), 2959, 2973; 2018 Act No. 173; 2019 Act No. 1

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

16 V.S.A. 164(14) directs the SBE to "adopt rules for approval of independent schools."

9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (150 WORDS OR LESS):

The proposed amendments to the Independent School Program Approval Rules are designed to incorporate the principles and goals of Act No.1 (2019), seeking to ensure that schools (1) promote critical thinking regarding the history, contributions, and perspectives of diverse groups of people; (2) include instructional materials and methods that enable students to explore and understand questions of identity, race equality, and racism; and (3) facilitate welcoming environments for all students without bias or exclusion. These amendments also establish a method for recognizing school accrediting agencies, create an annual compliance assurance requirement for approved schools, clarify the process for accredited and non-accredited schools to apply for and receive approval, and

reorganize the order of the rules for clarity and to align sequentially with the steps for independent school program approval.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

First, the amendments to the 2200 Rule Series are needed to apply the principles of Act 1 (2019) to approved independent schools. Second, the rules follow up on Board's commitment to LCAR in 2022 that the Board would define and implement a method to recognize accrediting agencies. Third, further amendments provide requirements for ongoing approval (annual compliance assurance form) to remain consistent with legislative intent, including in 16 V.S.A. §2973. Finally, technical changes either correct errors previously overlooked or reflect the reorganization of sections, and stylistic changes provide uniformity in reference to the Board, sections of the rules, and identification of subsections.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

The State Board reviewed at length the extensive recommendations submitted by the Act 1 Working Group that were proposed, and later it approved language that became part of the updates to the Education Quality Standards ("EQS") 2000 Rule Series. The Board identified principles of Act 1, as proposed in the EQS rules, that should apply to independent schools and subsequently proposed the revisions outlined in this filing. The Board based its changes related to the process for recognizing accrediting agencies on information and input from two major accrediting agencies that currently accredit most independent schools in Vermont, one membership organization, and its review of regulatory frameworks adopted by neighboring states. Other changes were proposed based on information received from the Agency and Board members involved in reviewing applications for approval. Finally, the rules were reorganized to be easier to read, understand, and follow.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

The Vermont Agency of Education Staff
Vermont State Board of Education

Independent Schools in Vermont seeking state approval
Governance Boards, administrators, parents, students,
teachers, and staff of Approved Independent Schools
Local Education Agencies
Advocacy Groups
The Human Rights Commission

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

The proposed changes amend the current 2200 Rule Series to align with the statutory intent of Act 1, develop a method for recognizing accrediting agencies, and implement an annual compliance assurance process. As a result, approved independent schools may have to invest in new or updated curriculum and in additional support or professional development for educators. The Agency of Education is assigned duties related to: (1) developing, tracking, and reviewing annual compliance assurance forms, (2) creating forms, accepting and reviewing school approval applications, issuing reports, and making a recommendation and (3) assisting the State Board in maintaining a public list of recognized accrediting agencies. The State Board anticipates that the overall economic impact of the rules on taxpayers to be minimal.

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 11/17/2023

Time: 11:30 AM

Street Address:

Zip Code:

URL for Virtual: Microsoft Teams meeting

Meeting ID: 275 702 326 939

Passcode: vu2ucy

Download Teams | Join on the web

Or call in (audio only)

+1 802-828-7667,,160796028# United States, Montpelier

Phone Conference ID: 160 796 028#

Find a local number | Reset PIN

Learn More | Meeting options

Date: 11/21/2023

Time: 04:00 PM

Street Address:

Zip Code:

URL for Virtual: Microsoft Teams meeting

Meeting ID: 251 512 953 600

Passcode: 5h53qE

Download Teams | Join on the web

Or call in (audio only)

+1 802-828-7667,,216027574# United States, Montpelier

Phone Conference ID: 216 027 574#

Find a local number | Reset PIN

Learn More | Meeting options

Date: 11/27/2023

Time: 06:30 PM

Street Address:

Zip Code:

URL for Virtual: Microsoft Teams meeting

Meeting ID: 263 195 071 921

Passcode: XLqxpA

Download Teams | Join on the web

Or call in (audio only)

+1 802-828-7667,,164349440# United States, Montpelier

Phone Conference ID: 164 349 440#

Find a local number | Reset PIN

Learn More | Meeting options

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

12/5/2023

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Independent School

Accrediting Agency

Education

Rule Series 2200

Equity

Ethnic Studies

Ethnic Group

Act 1

Social Group

Schools

Compliance Assurance

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

Independent School Program Approval Rules

2. ADOPTING AGENCY:

State Board of Education

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

SOS Log # 22-017; Independent School Program Approval;
effective 5/10/2022



INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: October 9, 2023, virtually via Microsoft Teams
Members Present: Chair Sean Brown, Jared Adler, Jennifer Mojo, Diane Sherman, Michael Obuchowski, and Nicole Dubuque
Members Absent: John Kessler and Brendan Atwood
Minutes By: Melissa Mazza-Paquette

- 2:01 p.m. meeting called to order.
- Review and approval of minutes from the September 11, 2023 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- Note: The following emergency rules were supported by ICAR Chair Brown:
 - 'Emergency Administrative Rules for Notaries Public and Remote Notarization' by the Office of Professional Regulation, on 09/19/23
 - OPR seeks to renew the emergency rules to ensure notaries can provide remote notary public services while the permanent rules go through the APA rulemaking process. More permanent rules to implement Act 171 are drafted.
 - These Emergency Rules allow an individual to satisfy the "personal appearance" requirement for the performance of notarial acts by appearing before a notary public through a secure communication link using specific protocols and standards.
 - 'PUC Emergency Rule 2.500 COVID-19 Emergency Procedures' by the VT Public Utility Commission, on 09/25/23
 - Risk of exposure for members of the public and state agency staff to the COVID-19 virus established as a global pandemic by the World Health Organization as of March 11, 2020.
 - This emergency rule amends various filing and procedural requirements and provides alternative procedures to reduce or eliminate in-person contact between members of the public and Commission staff or other members of the public to reduce the risk of exposure to the COVID-19 virus. This is the seventh extension of the emergency rule filed in April 2020. A number of measures included in this revised emergency rule have proven beneficial to those who appear before and interact with the Commission. The Commission is undertaking a process of adopting policies and promulgating permanent rules, where appropriate, so that the remaining measures in this revised emergency rule could either be phased out or incorporated into permanent rules. The revisions in this version reflect adoption of permanent Commission Rule 2. Two other Commission rules modified by this rule have entered formal rulemaking. The provisions in this revised emergency rule will be superseded when the permanent rules take effect.
- No public comments.
- Presentation of Proposed Rules on pages 3-12 to follow:

1. Residential Care Home and Assisted Living Residence Licensing Regulations, Agency of Human Services, Department of Disabilities, Aging, and Independent Living, page 3
 2. Independent School Program Approval Rules, State Board of Education, page 4
 3. Vermont Low Emission Vehicle and Zero Emission Vehicle Rules, Agency of Natural Resources, page 5
 4. Investigation and Remediation of Contaminated Properties Rule (IRule), Agency of Natural Resources, page 6
 5. Children's Personal Care Services, Agency of Human Services, Department of Health, page 7
 6. Rules of the Board of Medical Practice, Agency of Human Services, Department of Health, page 8
 7. Crisis Fuel Assistance Rules, Agency of Human Services, Department for Children and Families, Economic Services Division, page 9
 8. Seasonal Fuel Assistance Rules, Agency of Human Services, Department for Children and Families, Economic Services Division, age 10
 9. Rule Governing the Prescribing of Opioids for Pain, Agency of Human Services, Department of Health, page 11
 10. Council Rules, Vermont Criminal Justice Council, page 12
- No other business
 - Next scheduled meeting is November 13, 2023 at 2:00 p.m.
 - 3:54 p.m. meeting adjourned.

**Proposed Rule: Independent School Program Approval Rules, State Board of Education
Presented By: Jennifer Samuelson and Sarah Buxton**

Motion made to accept the rule by Jen Mojo, seconded by Jared Adler, and passed unanimously with the following recommendations:

1. Proposed Filing – Coversheet:
 - a. #9: Replace 'Rule Series 2200' with the title of the rule. Discuss the specific changes.
 - b. #13: Align with the Economic Impact Analysis.
2. Missing Adopting Page.

Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

Independent School Program Approval Rules

2. ADOPTING AGENCY:

State Board of Education

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

The proposed amendments to Rule Series 2200 are designed to give effect to 2019 Act No.1 consistent with legislative intent of the Act and 16 V.S.A. 164(14). These amendments also establish a method for recognizing school accrediting agencies, create an annual compliance assurance requirement for approved schools, require a method for evaluating whether an

approved school is compliant with nondiscrimination requirements, clarify the process for accredited and non-accredited schools to apply for and receive approval, and reorganize the order of the rules for clarity and to align with the steps for school approval and reapproval. The people or entities potentially affected by the adoption of these amendments and the estimated costs and benefits associated with their implementation are listed below:

Agency of Education and its employees: (1) developing, sending, tracking, and reviewing an annual compliance assurance form, (2) updating application forms, reviewing applications, issuing findings, and making recommendations regarding approval, and (3) assisting the State Board in maintaining a public list of recognized accrediting agencies and independent schools.

Independent Schools in Vermont seeking state approval: Heads of school, administrators, educators, and staff will need to annually certify compliance with laws and regulations related to operating an approved independent school. The extent to which these amendments will impact individual schools will depend on their existing policies and practices. For many schools, current curriculum and instruction, professional resources, learning environment, strategic planning, engagement processes, and reporting procedures already largely comply with the amended rules and the likely economic impact will be to redirect current investments to support the amended standards. Elsewhere, administrators and staff may need to:

1. Engage in additional and ongoing professional development to encourage and support the instructional strategies required by the rule.
2. Revise existing and develop new curricular content to align with the rule's amended requirements.
3. Align and create new policies to promote research, coordination and professional learning that supports the rule's implementation.

4. Develop methods for continually improving a culturally responsive pedagogy that critically examines and imparts a comprehensive historical and socially conscious understanding of the causes and effects of bias and discrimination and the impacts that unequal and unfair treatment of historically marginalized persons has had on individuals, groups of people, and society as a whole.

5. Modify learning environments to ensure equitable access to learning and instructional materials.

6. Review standardized methods for assessing compliance with nondiscrimination regulations and perform self (school)-assessment on at least an annual basis.

7. Review practices and policies to ensure that the school promotes an equitable, just, and inclusive community of adults and students, fosters a culture of learning, and inspires students to respect and value diversity in its many forms.

Approved Independent School governance boards and leadership teams may need to develop mechanisms to remain current in their understanding and implementation of recognized best practices and procedures related to maintaining environments for safe and equitable treatment of students and school personnel.

The expense associated with these tasks will vary by school and as such cannot be precisely estimated, in part or in total. In some cases, schools will redirect existing resources to comply with the rules. Not all efforts to comply with the rules will require new spending on the part of schools. The Vermont Independent School Association commented that many schools have already outpaced the speed of this regulatory change.

Outside membership organizations or advocacy organizations may also incur an expense in their efforts to support approved independent school efforts to comply with and implement the rules. For instance, these organizations may elect to develop guidance and technical assistance materials, offer trainings, and

provide individualized technical assistance. The extent to which membership organizations may engage in these activities is unknown. The expenses associated with providing additional services will be paid for by the organization's membership fees and other fee-for-service arrangements with approved independent schools. School may elect to contract for these services or support, or the organizations may provide support free of charge, mitigating the economic impact to schools.

Students and families may be required to select alternative enrollment options with tuition costs that are different from what a district anticipates or has budgeted.

The Vermont Agency of Education is responsible for monitoring compliance, assisting the Board in reviewing independent schools seeking approval, investigating complaints, and reporting to the Board. The Agency also provides administrative support to the Board, and thus it will assist with the administration of the new process for recognizing accrediting agencies. It is anticipated that the Agency will organize resources, including compliance and administrative support, to meet the new requirements in the rules.

Accrediting Agencies that wish to be recognized in Vermont may incur some cost associated with the time and effort required to complete and submit new and renewed applications for recognition. Accrediting Agencies may also be required to take on slightly more administrative work if the Agency of Education, at its discretion, asks them to share information and evidence collected from a school as part of the accreditation review.

The Vermont State Board of Education anticipates minimal additional expense resulting from the proposed rule changes. However, members expect to spend more time reviewing applications for accrediting agencies and may spend time conducting hearings resulting from automatic investigations required to be performed by the Secretary if a school does not complete an annual compliance assurance as required. Board members are

paid \$6.25 per hour for Board related work and receive \$50 to attend each meeting, so Board related costs may increase minimally.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

The proposed amendments are unlikely to create additional cost to public schools or local school districts. To the extent that the State Board and Agency of Education incur additional (minimal) cost for the administration of the rules, any increase in taxes would be negligible.

5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

The State Board does not anticipate that the proposed rule will impact local school districts.

6. IMPACT ON SMALL BUSINESSES:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

The State Board does not anticipate that the proposed rule will impact small businesses.

7. SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

No such evaluation is necessary because the State Board does not anticipate that the proposed rule will impact small businesses.

8. COMPARISON:

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

The amended rule aligns with the intention of Act 1. It includes requirements to provide instructional support strategies to educators and ethnic and social equity studies. It is likely that even without these

requirements, independent schools would be making similar investments and the rule provides content specific direction.

9. *SUFFICIENCY: DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

The State Board of Education collected information on the potential economic impact of the rule through testimony (oral and written) provided to its EQS Committee and received written feedback from the Heads of School of four separate approved independent schools. The Board also collected information on the impact of the changes to the Agency from informal conversations with Agency officials. The Board heard testimony from two accrediting agencies and received written feedback from one membership organization, on the likely impact of changes to the process by which accrediting organizations will be recognized.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

Independent School Program Approval Rules

2. ADOPTING AGENCY:

State Board of Education

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*
No impact anticipated.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*
No impact anticipated.

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
No impact anticipated.

6. RECREATION: *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*
No impact anticipated.

7. *CLIMATE: EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

No impact anticipated.

8. *OTHER: EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

No impact anticipated.

9. *SUFFICIENCY: DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

Because the proposed amendments to the rule involve requirements for an independent school to become approved, and because these requirements are either existing or are related to content and conduct in learning environments, no potential impact to the physical environment was identified. Therefore, the Board did not conduct a specific analysis for potential environmental impacts.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

Independent School Program Approval Rules

2. ADOPTING AGENCY:

State Board of Education

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

The Board's EQS Committee accepted recommendations from the Act 1 Working Group and considered other changes to the EQS rules for the purpose of policy coherence and alignment. The Committee carefully reviewed existing statutory requirements, the Act 1 Working Group's recommendations, technical recommendations proposed by the AOE, public comments, and recommendations from the field that support implementability. The Committee's considerations for potential revisions to the EQS were framed and constrained by existing statute, particularly Act 1 of 2019, 16 V.S.A. 165, and 16 V.S.A. 164(9).

The EQS Committee held a public listening session on November 30, 2022, and heard from more than 30 participants. All were in support of the recommended changes to the EQS. Additionally, the Committee heard from and considered recommendations from the Vermont School Boards Association, Vermont Superintendents Association, Vermont Principals Association, Vermont-

Public Input

National Education Association, Vermont Curriculum Leaders Association, Vermont Special Education Advisory Panel, Vermont Student Anti-Racism Network, Jewish Communities of Vermont, and the Vermont Independent Schools Association (VISA).

All organizations expressed support for equitable, anti-racist, culturally responsive, anti-discriminatory and inclusive educational opportunities for Vermont students, as articulated in the proposed revisions to EQS (2000 Series). VISA supported the substance of the proposed updates to EQS, but did not support extending application of the entire rule series to independent schools.

On April 10, 2023, the EQS Committee ratified the proposed updates to the 2000 rule series by a unanimous vote. The Committee agreed that the issue of whether to apply the EQS rule series to independent schools was an issue to be discussed and resolved by the full State Board.

Subsequently, the State Board held two special meetings (April 13 and May 11, 2023 for a total of four hours) to review, consider, and provide feedback to the proposed amendments to the EQS. The Board acknowledged that its authority to promulgate the EQS rules stemmed from 16 V.S.A. §165, which only applies to independent schools that elect to abide by it. Therefore, the Board identified Rule Series 2200, which is authorized by 16 V.S.A. §164(14), as the proper mechanism to apply the principles of Act 1 to approved independent schools.

On July 24, 2023, the Rule 2200 Subcommittee of the State Board reconvened to begin work on proposed modifications to this rule series. The Committee members are Jennifer Samuelson, Tom Lovett, and Kimberly Gleason. The Committee incorporated language from the following sections of the EQS (2000) Rule Series directly into amendments to this rule series: Sections 2110, 2113, 2114, 2120.1, 2120.5, and 2122.1. As noted earlier, and more extensively in the public engagement description of the EQS rules, these sections

Public Input

were developed through an extensive public engagement process. Since this language had been extensively vetted by stakeholders over the previous two years, the 2200 Committee relied on this prior work as it "lifted and shifted" language from these sections into the 2200 Rule Series.

The Committee met on July 24, July 27, August 4, August 9, and August 16 and took public comment at each meeting before further discussion and revision to the rules. The Committee heard directly from two accrediting agencies regarding proposed revisions to the process set forth in Section 2227 by which accrediting organizations will be recognized by the Board. The Board received comment via email from one accrediting agency membership organization.

The full Board met on August 9 and August 18 and comment, discussed, and subsequently revised and approved the rules attached to this submission. The Board received a written comment from Rep. Stone, on behalf of Reps. Arsenault, Graning, Sibilia, Burrows, Buss, Holcombe, and Christie; Jay Nichols; Sen. Champion; and Rep. Pajala. The Board received oral comment from Rep. Bongartz; Amanda Garces; Ranney Hudson; and Jay Greene. The Board also received written comment from the Education Equity Alliance (comprised of leaders of the VT-NEA, VT Superintendents Association, VT School Boards Association, and VT Principals Association) and the Heads of School from Burr and Burton Academy, St. Johnsbury Academy, Long Trail School, and Lyndon Institute.

The Board held three virtual public hearings on November 17, 2023; November 21, 2023; and November 27, 2023. The Board specifically noted that it would consider any public comment submitted during the EQS comment period that pertained to the 2200 Series. After the public comment period ended on December 5, the committee met nine more times to review comments and propose further modifications to the Rule. In addition, the full Board met eight times before approving the final rule. At each meeting of the committee and the full Board, the public had an opportunity to be heard. The Board continued to accept comment from stakeholders

Public Input

and incorporated changes at stakeholder request up until two days before the final rule amendments were approved by the full Board. The committee reviewed comments related to the 2200 rule that were submitted during EQS (99 submissions in total). It also considered 10 written comments and 15 oral comments received directly during the 2200 rulemaking process.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Please see response to Question 3. Additionally, intentional outreach was conducted to solicit feedback from accrediting agencies, approved independent schools, the Agency of Education, the Vermont Independent School Association, The Human Rights Commission, membership organizations, and leaders who participated in the Act 1 Working Group recommendations.

Description of Specific Changes Made in Final Rule
Vermont State Board of Education
Rule 2200: Independent School Program Approval [#23P037]

What follows is a section-by-section explanation of where substantive changes have been made to Rule 2200: Independent School Program Approval. In sections where substantive changes exist, a brief description of the change follows in **ORANGE** text. Sections 2200 – 2229 were significantly reorganized, to include reordering, in these proposed amendments. The changes described below use the section numbers as they are presented in the current final rule.

Rule 2200. Independent School Program Approval

Section 2220. Statement of Purpose

- Substantially rewritten to describe changes that implement the principles of Act 1 (2019) as set forth in Rule Series 2000 (“EQS”), new organizational changes, an annual compliance assurance requirement, and a new framework for recognizing accrediting agencies. Much of the language that pertains to Act-1 related changes mirrors that which is proposed in the final EQS rule.

Section 2221. Statutory Authority

- Adds Act 1 of 2019.

Section 2222. Definitions

- Minor updates to some terms. Defines the following new terms:
 - Anti-discriminatory
 - Anti-racist
 - Caste
 - Civic and Community Engagement
 - Critical Thinking
 - Culturally and Linguistically Diverse Students
 - Culture
 - Discrimination
 - Equity or Equitable
 - Ethnicity
 - Inclusion or Inclusive
 - Independent School Approved for Public Tuition
 - Language
 - Linguistic Diversity
 - Needs-Based Professional Learning
 - Neurodiversity
 - Race
 - Racism
 - Restorative Practices

Section 2223. Requirements to Operate as an Approved Independent School

- Reorganized so that requirements to operate an approved independent school are all in one place and are described before the procedure for becoming approved is set forth.
- Creates a distinction between approved independent schools (schools that meet requirements of Sections 2223 and 2224) and Independent Schools that are also approved for public tuition because they provide special education services and meet the requirements of Sections 2229 and 2231.

2223.1. General Requirements for Approved Schools

- Formerly described the school visit. Now generally restates 16 VSA §166(b).

2223.2. Nondiscrimination Requirement for Approved Independent Schools

- Formerly described the report.
- Now aligns with the nondiscrimination language of EQS.

2223.2.1. Nondiscrimination Statement and Policy

- Restates an updated version of language previously in Subsection 2226.6. Includes distribution requirement.

2223.3. Specific Requirements for Approved Independent Schools

- Parallels EQS Subsection 2122.1.

2223.3.1. Physical Facilities

- Previously Subsection 2226.6 and 2226.7; adds requirement that approved independent schools meet all applicable state and federal requirements pertaining to student privacy.
- Restates 16 VSA §166(b)(7).
- Previously Subsection 2227.4.
- Generally updated for clarity and consistency.

2223.3.2. Financial Capacity, Solvency, and Stability

- Previously Subsections 2227.11 and 2226.9.
- Previously Subsection 2223.8; changed Board to Secretary per 16 VSA §166(b)(8).
- Added recommendation to use GAAP.
- Generally updated for clarity and consistency.

2223.3.3. Instruction, Faculty, and Special Services

- Previously Subsection 2226.5.
- Previously Subsections 2226.8.1; 2226.8.2; 2226.8.3; 2227.5; 2227.5.1; 2227.5.2; 2227.6 and 2227.7.
- Added Instructional Strategies; aligns with EQS Subsection 2120.1.
- Aligns with parts of EQS 2120.6.
- Previously Subsections 2227.2 and 2227.3.
- Special Services updated to align with parts of EQS re: accessible materials.
- Generally updated for clarity and consistency.

2223.3.4. Maintaining Safe and Equitable Access to Educational Opportunities

- New and generally updated language.
- Incorporates updates to align with 16 V.S.A. §1661a.
- Incorporates 16 V.S.A. §166(e).
- Updated to include changes in law and incorporates 16 V.S.A. §253 – 254.
- Incorporates 16 V.S.A. §260.
- Incorporates 16 V.S.A. §563(a).
- Incorporates 16 V.S.A. §944.
- Incorporates former Subsection 2226.3.
- Incorporates 16 V.S.A. §1431.
- Incorporates 18 V.S.A. §1120.
- Incorporates 16 V.S.A. §912.
- Incorporates 16 V.S.A. §1432.
- Incorporates 16 V.S.A. §1073.

- Incorporates 16 V.S.A. §1387.
- Updated to reflect Act 29.
- Incorporates 16 V.S.A. §1481.
- Updated to reflect Act 29.
- New language to align with requirement for recognizing accrediting agencies (Section 2227) and reflects the principles of Act 1.
- Updated to reflect Act 29.
- Generally updated for clarity and consistency.

2223.3.5 Other Required Activities

- New and generally updated language.
- Incorporates 16 V.S.A. §166(b)(3); previously in 2226.11.
- Previously in 2227.9.
- Incorporates 16 V.S.A. §166(b).
- Previously in 2227.10.
- Incorporates 16 V.S.A. §2227.13.
- Incorporates 16 V.S.A. §166(g); adds encouragement to provide data to LEA in support of LEA duties outlined in EQS.
- Incorporates 16 V.S.A. §4010(c).
- Incorporates 16 V.S.A. §12.
- Incorporates 16 V.S.A. §907.
- Previously in 2227.14.
- Refers to previous 2223.8(a)(2).
- Generally updated for clarity and consistency.

2223.3.6. Independent Schools Operating a Boarding Program

- Generally updated for clarity and consistency.
- Previously in Subsection 2227.

2223.4. Annual Compliance Assurance

- New section; new requirements.

2223.5. Confidential Information

- Updated; previously Subsection 2223.8(g).

Section 2224. Application and Reapplication for Approval; Approval Process

- Rewrites the process to reflect current practice with added structure based on 16 V.S.A. §166(b).
- Provides clarity to current rules.
- Organized to distinguish between “standard” and “accredited” school approval pathways.

2224.1. Standard Application Process

2224.1.1. Standard Application

- Incorporates former Subsections 2223 and 2223.
- New clarifying language.
- New requirement.

2224.1.2. Standard Application Review, Visit, Report, and Recommendation

- Incorporates previous Subsections 2223, 2223.1, and 2223.2.
- Updated for clarity and consistency.

2224.2. Accredited Independent School Application Process

- Restates 16 V.S.A. §166(b) and incorporates parts of previous Section 2224.
- Updated for clarity and consistency.

2224.2.1. Accredited Independent School Application

- New Language.
- Clarifying practice and including new requirement for form and compliance assurance.
- Updated for clarity and consistency.

2224.2.2. Accredited Independent School Application Review, Report, and Recommendation

- New language.
- Clarifying intent that accredited school applications are also reviewed by Agency and provided with a thirty-day response period.

2224.3. Review

- New language.
- Replaced former Subsection 2223.4.

2224.4. Board Approval

- Follows previous approval process in 2227; Board makes specific findings.
- New clarifying language.
- Previously Section 2227 (including Subsections: 2227.1 – 2227.14) and Subsection 2226.9.
- New language aligns with Act 1; requirements that are named in the recognized accreditation agency approval process.
- New language requiring compliance assurances.
- New language sets forth the findings the Board must make in determining eligibility to receive public tuition.
- Clarifying language about Agency's responsibility to maintain lists of schools.

2224.5. Continued Approval

- Previously Subsection 2223.6.

2224.6. Continued Accreditation

- Previously Section 2224.

2224.7. Reapplication

- Previously Subsection 2223.5.
- Updated.

2224.8. Interim Compliance Report from Accrediting Agency

- Previously Section 2224.
- Added clarifying language.

Section 2225. Length of Approval

- Previously Section 2228.

Section 2226. Termination; Procedures for Revoking or Suspending Approval

- Reorganization; regrouped subject matter.

2226.1. Termination

- Previously Subsection 2223.7.
- Clarifies notice requirement.

2226.2. Complaints; Investigations; Due Process Hearings

2226.2.1. Complaints; Reports

- New clarifying language about form of complaint.
- Substance restated from 16 V.S.A. 166(b).
- Previously in Subsection 2223.9(e)(3).
- New Language re: discrimination complaints.

2226.2.2. Investigations; Due Process Hearing

- Previously Subsection 2223.9.
- Clarifies jurisdiction over complaints made under this rule, not solely approval standards.
- Adds notification of Board (re: probation).
- Incorporates and merges with former Subsection 2228(c).
- References requirement in 16 V.S.A. §166 re: Council of Independent Schools consultation and opinions.
- Incorporates previous Subsection 2223.8.
- Restates 16 V.S.A. 166(b)(8).
- Includes former Subsection 2223.9(d).
- Updates and clarifies language.

2226.3. Revocation or Suspension of Approval

- Clarifies that the Board has the power to revoke and suspend school approval (overall) and may also revoke or suspend a school's approval to receive public funds.
- Includes specific reference to new requirement.
- Adds new option for Board to act in certain cases.
- Updates and clarifies language.

Section 2227. Recognized Accrediting Agencies

- New language and process.
- Adds transition period.

Section 2228. Tuition from Public Funds

- Updated language for clarity and consistency.
- No substantive change.

Section 2229. Approval to Receive Public Tuition; Special Education Approval

- New language clarifying terms.

2229.1. Enrollment: Requirements for Independent Schools Approved for Public Tuition, Students, and LEAs

- Updated language for clarity and consistency.
- New requirement.

2229.2. Staffing

- Updated language for clarity and consistency.

2229.3. Assurances

- Updated language for clarity and consistency.

2229.4. Procedure for Ensuring the Provision of Special Education Services to Publicly Funded Students in Approved Independent Schools

- Added language in (a).
- Updated language for clarity and consistency.

2229.5. Payments for Special Education Service Costs Delivered by Out-of-State Programs

- Retitled.
- Updated language for clarity and consistency.

2229.6. Approval Procedures to Receive Public Tuition

- Updated language for clarity and consistency.

2229.7. Duty to Notify

- Updated language for clarity and consistency.

2229.8. Minimum Level of Service

- Updated language for clarity and consistency.

Section 2230. Placement Prohibition

- Updated language for clarity and consistency.

2230.1. Exceptional Circumstances – Approval Process

- Updated language for clarity and consistency.

Section 2231. Written Agreements Required

2231.1 Agreement as to Costs

- Updated language for clarity and consistency.

2231.2. Agreement as to Non-Instructional Services.

- Updated language for clarity and consistency.

Sections 2232 – 2266

- No substantive changed.
- Only updated for consistency in style (e.g. punctuation, grammar, organizational conventions, etc.).

Sections 2270 - 2275

- Minor updates to language to reflect current names and terms.

Section 2776. Rule of Construction

- New language.

Section 2277. Effective Date

- Updated to apply to this rule.

FINAL RULE RESPONSIVENESS SUMMARY

Vermont State Board of Education
Rule 2200: Independent School Program Approval [#23P037]

Public Hearings: 11/17/2023; 11/21/2023; 11/27/2023
Public Comment Period: October 13, 2023 (filed) – December 5, 2023

Public Comment: Substantial Arguments & Considerations Raised

Summarized below are the substantial arguments and considerations raised for or against the proposed amendments to Rule 2200: Independent School Program Approval (“2200”) received by the Vermont State Board of Education (“Board”). The Board’s reason for adopting or rejecting the argument or consideration follows each description.

PART 1: COMMENTS RECEIVED AS PART OF RULEMAKING FOR RULE SERIES 2000: EDUCATION QUALITY STANDARDS.

The following comments were received as public comment during rulemaking for Rule Series 2000: Education Quality Standards (“EQS”). The EQS rulemaking process began before and overlapped with this rulemaking process (“2200”). The Board announced that it would consider comment received during either process as it relates to the applicable rule. What follows in Part 1 is a summary of comments that were submitted during the EQS comment period which also pertained to the substance of 2200.

1. The EQS Rules should apply to approved independent schools. There should not be different rules for public and independent schools.

Board Response: Reject

Title 16 of the Vermont Statutes Annotated directs the Board to regulate public and independent schools through different statutory provisions (16 VSA §165 and 16 VSA §166, respectively). By law, EQS applies only to public schools and independent schools choosing to participate in EQS. The Board’s proposed modifications of the EQS rule remain consistent with this provision of the law. Applying EQS to all approved independent schools would exceed the Board’s authority and the outcome would contradict the General Assembly’s regulatory structure that accounts for differences in the operation and governance of public and independent schools.

2. The principles of Act 1 included in EQS should apply to approved independent schools.

Board Response: Accept

By exercising its authority under 16 VSA §164(14,) the Board is achieving the requested outcome that the principles of Act 1 of 2019 “An Act Relating to Ethnic and Social Equity Studies Standards for Public Schools” (“Act 1”) apply to both public and approved independent schools. (See *Proposed Final Rule 2200: Independent School Program Approval.*)

3a. EQS/2200 should not define “Ethnic Group” and “Ethnic Studies” using the Board’s proposed definition and should instead use the definition provided by the Legislature in Act 1, including the words “groups that have been historically subject to persecution or genocide” in the definition of “Ethnic Groups.”

Board Response: Accept in Part; Reject in Part

The Board’s rulemaking authority is specifically limited by legislative intent pursuant to 16 VSA §164(7). The General Assembly assigned specific meaning to “Ethnic Group” and “Ethnic Studies” in Act 1 that the Board may

not alter without contravening legislative intent. Since terms in a rule carry the definition assigned to them in law, the Board removed “Ethnic Group”, “Ethnic Studies”, and other terms from the Definitions Section of the rule that are substantively defined by law. This change ensures that the Board is not exceeding its authority and avoids the possibility of confusion should the General Assembly assign new meanings to these terms in the future.

3b. EQS/2000 should define “Ethnic Group” and “Ethnic Studies” using the proposed definition.

Board Response: Reject

The Board’s rulemaking authority is specifically limited by legislative intent pursuant to 16 VSA §164(7). The General Assembly assigned specific meaning to “Ethnic Group” and “Ethnic Studies” in Act 1 that the Board may not alter without contravening legislative intent. Since terms in a rule carry the definition assigned to them in law, the Board removed “Ethnic Group”, “Ethnic Studies”, and other terms from the Definitions Section of the rule that are substantively defined by law. This change ensures that the Board is not exceeding its authority and avoids the possibility of confusion should the General Assembly assign new meanings to these terms in the future.

4. All schools should be required to educate students on the history of the Jewish people and address the rise of antisemitism in Vermont by including specific instruction on the topic and raising awareness within schools.

Board Response: Accept in Part/Reject in Part

Section 2223.3.3(c) requires that “knowledge of diverse cultures, languages, and perspectives shall be incorporated into learning activities and curriculum design, including connecting students’ life experiences and ways of learning to help students to access rigorous curriculum and to develop higher order thinking skills. Curriculum shall be equitable, anti-racist, culturally responsive, anti-discriminatory, inclusive, and accessible to students and families, and shall include ethnic and social equity studies, as described in Act 1 (2019), which promotes critical thinking regarding the history, contribution, and perspective of ethnic groups and social groups.” Commenters directly and indirectly requested that the Board establish express curriculum requirements regarding teaching of Jewish history and experiences and the rise of antisemitism. In Vermont, curriculum is developed and implemented at the local level. The Board declined to change this practice or to establish a statewide curriculum for this purpose.

5. Learning environments should be more inclusive for Jewish students and educators should be trained and supported in respecting and addressing the lived experiences of Jewish members of the school community.

Board Response: Accept in Part/Reject in Part

Section 2223.3.3(b) requires that “[p]ractices employed by educators shall include examining and teaching a subject from multiple academic perspectives and encouraging students to engage with and synthesize diverse perspectives and narratives, including those from the students’ lived experiences, into a coherent understanding or analysis.” It further requires that educators be supported in, for example, “ (a) examining their own identities and biases and (b) fostering a learning environment that recognizes multiple ethnic, cultural, and racial perspectives; presents and critiques historical counter-narratives; and encourages students to examine issues and expressions of social equity within and beyond the classroom or school.” The Board concluded that the language in the final version of the rule addresses the concerns raised by the commenters.

6a. The proposed definition of “Discrimination” and the references to prohibiting discrimination in the Statement of Purpose *should remain* as they appear in the Proposed EQS Rule.

Board Response: Reject

The Board does not have the authority to create or expand legally protected classes of people, in the context of discrimination law. The definition of discrimination and references thereto in the Statement of Purpose have been modified in the final rules of both EQS and 2200 to align with current federal and state law. Within the Section 2220 Statement of Purpose, references to classes or characteristics of people that are not currently afforded heightened protections under the law remain and are named to identify and clarify that schools are also required to provide an equitable, anti-racist, culturally responsive, anti-discriminatory, and inclusive learning environment for students without regard to any of those characteristics named.

The Board appreciates the recommendations of the Act 1 Working Group and has finalized the rules considering those recommendations, other comments received, the language and intent of Act 1, and other feedback, along with its own review related to the application, operation, and implementation of the rules. The final version of the rule adopts the highest level of anti-discriminatory protections for students under the law.

6b. The proposed definition of “Discrimination” and the references to prohibiting discrimination in the Statement of Purpose *should be changed* in the final rule to align with current state and federal law.

Board Response: Accept

The Board does not have the authority to create or expand legally protected classes of people, in the context of discrimination law. The definition of discrimination and references thereto in the Statement of Purpose have been modified in the final rule to align with current federal and state law. The Board appreciates the recommendations of the Act 1 Working Group and has finalized the rules considering those recommendations, other comments received, the language and intent of Act 1, and other feedback, along with its own review related to the application, operation, and implementation of the rules. The final version of the rule adopts the highest level of anti-discriminatory protections for students under the law.

7. School educators and administrators need to be more diverse, to include their lived experiences and perspectives, and have the tools they need to combat antisemitism and racism. The rules should address the low number of Jewish teachers and administrators in Vermont’s schools, which may subsequently contribute to instances where Jewish students and their experiences or religious beliefs are marginalized, and Christian traditions are presented as the norm or as a frame for learning.

Board Response: Accept in Part/ Reject in Part

The Board does not have power or authority in making hiring decisions at independent schools. This Rule includes, however, new requirements for support for educators that the Board believes will help to address the comment that school staff need to have the training, experience, and tools to combat antisemitism and racism and provide informed, respectful, and inclusive approaches to instruction and student support. Section 2223.3.3(b) requires that “[p]ractices employed by educators shall include examining and teaching a subject from multiple academic perspectives and encouraging students to engage with and synthesize diverse perspectives and narratives, including those from the students’ lived experiences, into a coherent understanding or analysis.” It further requires that educators be supported in, for example, “ (a) examining their own identities and biases and (b) fostering a learning environment that recognizes multiple ethnic, cultural, and racial perspectives; presents and critiques historical counter-narratives; and encourages students to examine issues and expressions of social equity within and beyond the classroom or school.”

8. Independent schools must implement an assessment system that consists of formative and summative assessments and provides data to inform instruction, measure progress, and assist teams in ensuring students are making adequate progress and meeting graduation requirements.

Board Response: Reject

Pursuant to 16 VSA §166(g), the General Assembly has determined that an approved independent school that accepts students for whom the district of residence pays tuition shall use the assessments approved by the State Board to measure attainment of standards that are established by the State Board, which equally apply to and are also required of public schools. The General Assembly has assigned to the Secretary of Education (“Secretary”) the responsibility of determining and requiring any additional data related to the assessments. The Board does not have the statutory authority to require approved schools to implement additional assessment systems and provide related data.

9. The Agency of Education (“Agency”) must be granted regulatory authority to monitor the financial accountability of independent schools, consistent with generally accepted accounting principles.

Board Response: Reject

The Board does not have the power to grant this authority to the Agency. 16 V.S.A. §166(b) speaks strictly to financial capacity. The Board did add (c) to Section 2223.3.2 to encourage approved independent schools to employ generally accepted accounting principles (GAAP).

10. The Agency should possess the capacity to provide technical assistance and to implement and oversee meaningful collaboration with independent schools and their LEA partners, assure compliance, and oversee delivery of special education services.

Board Response: Reject

The Board does not have the power to grant resources to the Agency.

11. Teacher licensure requirements for independent schools, particularly for those professionals providing special education services, must mirror that of professionals working in public schools.

Board Response: Reject

16 VSA §2973(c)(1) states “In order to be approved as an independent school eligible to receive State funding, the school shall demonstrate the ability to serve students with disabilities by: (C) employing or contracting with staff who have the required licensure to provide special education services.”

12. Each independent school review process should include LEA representation or a Vermont Council for Special Educators Association (VCSEA) representative.

Board Response: Reject

The Agency is the appropriate entity to review applications and provide recommendations to the Board regarding a school’s compliance with the requirements of 2200.

13. Federal law requires students in independent schools to meet the same educational standards applicable to public schools.

Board Response: Reject

The legal authority given in this comment applies to children with disabilities who are placed in an independent school by a public agency as a means of providing special education and related services. There does not appear to be authority to substantiate the broad claim asserted in the comment.

14. The role of the LEA should be more prominent as it remains the “legally answerable structure.” The role of the IEP team should be affirmed.

Board Response: Accept

The Board provided some clarification regarding the role of the LEA in Section 2229.

15. Budgeting and financial accounting practices should be more transparent to avoid cost increases and inadequate services.

Board response: Accept in Part/Reject in Part

Statute requires the Secretary to set rates and oversee decisions around allowable costs. The Secretary may withhold, or direct an LEA to withhold, payment under this subdivision pending the Secretary’s receipt of required documentation under this subdivision, or it may withhold, or direct an LEA to withhold, an amount determined by the Secretary as not reasonable in relation to the special education services provided by the school pursuant to 16 V.S.A. §2973(b).

The Board did add (c) to Section 2223.3.2 to encourage approved independent schools to employ generally accepted accounting principles (GAAP).

16. A public school administration official representative should be consulted during a formal investigation of a complaint under these rules.

Board response: Reject

Nothing in the rule prohibits the Agency, or the federal or state agency to which a matter is referred for investigation, from consulting with public school administration officials if the situation warrants such outreach.

17. Accreditation from a recognized accrediting agency must be required if a school is to be found to meet state and federal special education requirements.

Board response: Reject

The Board does not agree that a school must be accredited by a recognized accrediting agency to be compliant with state and federal special education requirements. Nothing in the law requires this.

18. Schools must include a statement indicating that the design of special education services is consistent with Vermont and federal education regulations and Act 173 core purposes in their descriptions of school enrollment.

Board response: Accept in Part/Reject in Part

While the Board did not include a requirement that schools produce a statement as requested, the rules now require the Board to make a specific finding of compliance with Sections 2229 and 2231 before reapproving a school that wishes to receive public tuition.

19. An operational definition of “minimum” and “substantially” is needed for the requirement that a school provide a minimum course of student pursuant to 16 VSA §906 and that it substantially complies with the rules.

Board response: Accept in Part/Reject in Part

16 V.S.A. §906 defines a minimum course of study. The Board has further addressed the matter of “substantial compliance” in Section 2224 by delineating which sections require *substantial* compliance and which sections require *full* compliance.

20. An operational definition of “understanding” is needed in requiring a school to demonstrate compliance with special education law.

Board response: Reject

No changes were made because the comment did not explain how the word is confusing or show that the process fails to meet its intended goal of providing assurances of compliance.

21. LEAs should be provided with the opportunity to participate in the development and revision of state standards that apply to independent schools.

Board response: Reject

No change is required. LEAs are already provided with the opportunity to participate in the development of these rules, which are the standards for independent school program approval, through Vermont’s Administrative Procedure Act.

22. The rules do not comply with IDEA’s requirement that “students with disabilities that Local Education Agencies (LEAs) place in private schools must have access to the same standards of education that those students would have in a public school.” The standards must be the same.

Board Response: Reject

34 C.F.R. §300.146 Responsibility of SEA (State Education Agency) requires that each SEA (in this case, the Agency) “must ensure that a child with a disability who is placed in or referred to a private school or facility by a public agency ... is provided with an education that meets the standards that apply to education provided by the SEA and LEAs including the requirement of this part ...” Pursuant to 16 VSA §2973(b)(1), the Secretary is assigned the duty of establishing minimum standards for students receiving special education services in independent schools in Vermont and may advise independent schools as to the need for certain special education services in Vermont. Further, the federal provision stated herein applies “only to children with disabilities who are or have been placed in or referred to a private school or facility by a public agency as a means of providing special education services.” It does not apply to parentally placed children pursuant to 34 C.F.R. §300.137.

23. The Vermont Constitution, specifically the Common Benefit Clause, requires that the standards for public and independent schools be the same.

Board Response: Reject

The General Assembly has assigned to the Board the responsibility of promulgating rules for public schools (EQS) and rules governing approval of independent school programs (2200). The comment requests an outcome that exceeds the scope of the Board's authority.

24. The statutory requirement that approved independent schools provide a "minimum course of study" results in lower quality standards for independent schools.

Board Response: Reject

The statutory requirement referenced applies equally to public schools and independent schools.

25. Parents, communities, and the state have no way of evaluating whether students attending approved independent schools are receiving education that is comparable to that provided by public schools.

Board Response: Reject

The Board's authority under 16 V.S.A. §164(14) is to "adopt rules for approval of independent schools." The comment requests an exercise of authority that extends beyond the scope of these rules.

26. The rules enable social and economic sorting and polarization by not requiring open enrollment.

Board Response: Reject

No evidence has been offered to substantiate this claim. These rules require that students be accepted for enrollment in a nondiscriminatory manner and provide the same protections against discriminatory enrollment practices as public schools.

27. "In Vermont, because of those who would turn public education into a private benefit, we now fund private schools that are openly homophobic and transphobic, which have refused to hire staff whom they know are gay or lesbian, and who have suggested to the legislature that they should not teach a representative curriculum because their students are mostly "white," as if racism has not played a role in preserving economic advantage throughout our history . . . We fund out-of-state private schools that don't serve any students with disabilities or provide civil rights protections to LGBTQ students."

Board Response: Accept in Part/Reject in Part

This comment/consideration reflects criticism of actions the Board agrees are deplorable and, in many cases, already unlawful. Modifications to the final rule clarify that the rules prohibit, to the fullest extent allowed by law, discrimination against any student pursuing an education or participating in the general life or activities of a school because of or based on any actual or perceived protected class consistent with state and federal law. Modifications also require that each approved school shall, to the fullest extent consistent with its constitutional and statutory rights, maintain a statement of nondiscrimination that complies with the Vermont Public Accommodations Act and the Vermont Fair Employment Practices Act. The modifications to the rule implementing the principles of Act 1, which are substantially the same as those modifications to EQS, require that "curriculum be equitable, anti-racist, culturally responsive, anti-discriminatory, inclusive, and accessible to students and families, and shall include ethnic and social equity studies, which promotes critical thinking regarding the history, contribution, and perspectives of ethnic and social groups." Additionally, "knowledge of diverse cultures, languages, and perspectives shall now be incorporated into learning activities and curriculum

design, including connecting students' life experiences and ways of learning, that helps students to both access rigorous curriculum and to develop higher order thinking skills." In adopting new requirements related to instructional strategies, "practices employed by educators shall include examining and teaching a subject from multiple academic perspectives and encouraging students to engage with and to synthesize diverse perspectives and narratives, including those from the students' lived experiences, into a coherent understanding or analysis. Further, "educators shall be supported in . . . examining their own identities and biases; fostering a learning environment that recognizes multiple ethnic, cultural, and racial perspectives; presents and critiques historical counter-narratives; and encourages students to examine issues and expressions of social equity within and beyond the classroom or school; and modeling and setting high expectations for all students, regardless of a student's prior academic experience, family background, socio-economic status or (dis)abilities, and promoting respect for student differences ..." Finally, the Board has no authority to regulate schools outside the state of Vermont.

PART 2: COMMENTS RECEIVED AS PART OF RULEMAKING FOR THIS RULE SERIES (2200).

The following comments were received as public comment during rulemaking for this Rule Series (2200).

1. The reorganization of the rules makes them clearer and more accessible.

Board Response: Accept

The Board appreciates and accepts this comment.

2. This Rule Series (2200) has gone through rulemaking twice in the last two years. Though changes to the Rule have been broadly welcomed and accepted, Approved Independent Schools would appreciate a pause in further changes to the rules after this current round of rulemaking is complete. Schools need stability following these updates to provide time to integrate and adapt to changes.

Board Response: No Action

The Board appreciates and accepts this comment. Though there is not a practical way to address the matter in this rule, the Board acknowledges the concern and has no present intention to reopen these rules again in the near future.

3. Some of the definitions included in EQS are not included in 2200. Some definitions that do appear in both rules are worded slightly differently.

Board Response: Accept in Part/ Reject in Part

Not every defined term in EQS is used in 2200. The Board responded to this comment by comparing the definition sections of both rule series and, if a term that is defined in EQS is used in 2200, that term's definition is now included with this rule. The Board declined to include the definition of Career Technical Education on the grounds that the term is well known and there is little likelihood of confusion. The language used to define a term is now aligned between EQS and 2200, except when doing so would make the term inaccurate as applied.

4. Rule 2200 does not have the following EQS Sections: 2121.3 (Need-Based Professional Learning); 2122.2 (Access to Instructional Materials); 2123 (Comprehensive Assessment Systems) and 2124 (Reporting of Results). The Board should consider including these requirements in Rule 2200.

Board Response: Accept in Part/ Reject in Part

Rule 2200 now addresses needs based professional learning in Section 2223.3.3 (Instruction, Faculty, and Special Services), subdivision (a), and access to instructional materials in 2223.3.3 (Instruction, Faculty, and Special Services), subdivision (c). The Board declines to include any additional reporting requirements because 16 VSA §166(g) gives the responsibility of determining and requiring the reporting of data to the Secretary.

5. Section 2223.4 should emphasize nondiscrimination provisions. The failure to submit a compliance form results in a lengthy investigation and includes a finding of "intentional violation." Suggests rethinking the standard and lengthy process that includes investigation.

Board Response: Accept

This Section has been revised to address these comments.

6. Requests that LEAs are provided with notice when a school is under investigation and provided with the opportunity to withhold tuition during the investigation.

Board Response: Reject

This request exceeds the Board's authority, which is limited to adopting rules "for approval of independent schools." The Board further notes that it is required to provide a school with a due process hearing before taking adverse action against it.

7. Requests strengthening compliance review process in Section 2224.2. Suggests that accredited schools assure compliance with Sections 2223.3.3 and 2229 in application and review process.

Board Response: Accept in Part/ Reject in Part

Accreditation provides a level of additional oversight and permits the Board to rely on the accrediting agency's findings and determinations of compliance. The Board did address the commenter's concern regarding compliance with Section 2229 by ensuring it was included, as applicable, in Section 2224.2.

8. In Section 2223.5, schools should send data to LEAs in addition to the Secretary, and information provided by schools should all be part of the public record.

Board Response: Reject

Pursuant to 16 VSA §166(g), the General Assembly has directed schools to provide data to the Secretary and has assigned to the Secretary the responsibility of determining any additional data that approved schools must provide. The Board does not have the statutory authority to require approved schools to provide related data directly to LEAs. Further, the Board lacks the statutory authority to remove exemptions from the Public Records Act as designated by the General Assembly. 16 VSA §166(b)(8)(C) directs that information provided by independent schools under rules for their approval that is not already in the public domain is exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

9. In Section 2224.5, time constraints should be added to the process for review of schools applying for reapproval. Current process may allow for extensions that last for years. Section 2224.7 should include deadlines for the Secretary to process (re)applications.

Board Response: Accept in Part

Section 2224.7 (Reapplication) has been amended in the final rule to provide: "Upon receipt of a complete application for reapproval, the Agency shall conduct its review, issue its report, and the Secretary shall make their recommendation to the Board *in a timely manner.*"

10. The complaint investigation process is prolonged and drawn out. It could be shortened by submitting a complaint directly to the Board. Further, LEAs should be notified when an investigation begins so tuition can be withheld pending resolution of the investigation.

Board Response: Reject

The Board is not aware of any evidence that investigations are unnecessarily prolonged or drawn out. Further, the Board is not statutorily responsible for investigations, nor is it structured, resourced, or trained to investigate complaints. The Agency is the appropriate entity to conduct investigations. The Board did make minor alterations to the complaint and investigation process to ensure that complaints related to violations of nondiscrimination laws are referred to the appropriate state or federal agency. Under the law, approved schools may not lose their approval status, which allows them to receive public tuition, without a due process hearing. It would be inappropriate for the Board or the Agency to notify an LEA, or permit it to withhold tuition, until due process has been provided.

11. Section 2226.2.2(g) should be modified to require the Secretary to maintain a public register of all complaints received, rather than just those that result in probation or a formal investigation.

Board Response: Reject

The Board will conduct a due process hearing at the conclusion of an investigation if suspension or revocation of approval is recommended by the Secretary. Unintended consequences may stem from making information public before the conclusion of an investigation.

12. Commenters suggest specific changes to wording in Sections 2223.4 and 2223.3.5 for consistency in form and style.

Board Response: Accept

13. VISA members are required to adhere to anti-discrimination laws without qualification. Opposes approval or renewal of any school that is unwilling to comply. Suggests changes including electronic submission; AOE support in transition; initial deadline for submission; notification requirements; identification of period of application for initial compliance; specification of annual deadlines and process more clearly; direction of specific process for notifying schools of failure to submit assurance and consequences of not complying; and updating the register of approved independent schools and compliance assurance status.

Board Response: Accept in Part/Reject in Part

Section 2223.4 has been revised to incorporate many of the commenter's requests related to notice and the specific submission requirements. The Board declined to require maintenance of a list of schools that are not in compliance because the process for addressing noncompliance has been accelerated.

14. Commenter recommends limiting the recognized accrediting agencies to AISNE and NEASC. Commenter cites present status where the two organizations already serve the state's needs adequately. Commenter also notes the lack of demand and need for additional accrediting agencies because of the current moratorium on approval of new schools.

Board Response: Reject

The Board appreciates the comment but declines to change its position. The Board believes that the comprehensive set of requirements that accrediting agencies must meet to be recognized will ensure rigor, familiarity, and engagement with the Vermont education system and ensure that accrediting agencies are aligned with the values of Vermont.

15. A supporter and operator of a Christian school in the Northeast Kingdom tried to become approved and withdrew its application because it felt it was having to give up a lot of its Christian values and Christian principles. The commenter thinks that 2200 might be discriminatory toward Christian schools and would like to see more consideration given for religious and Christian schools.

Board Response: Accept in Part/ Reject in Part

The Board has reviewed the rule to ensure that it affords the highest level of protection from discriminatory practices against both students and institutions and concludes that, in its final form, the rule does not impose any obligation on a school that is inconsistent with that school's constitutional or statutory rights. The rule similarly fully protects students' constitutional and statutory rights under the law.

16. Approved independent schools are arguably more accountable for their performance than public schools because they undergo an annual review, a comprehensive reapproval process every five years, a state level complaint process, local accountability to voters, accountability to students and families who can enroll elsewhere (threatening continued existence of school), and individualized education program team accountability for students with individual needs.

Board Response: No Action

The Board accepts the comment but declines to add or remove further measures of accountability from the rule.

SUMMARY OF ORAL COMMENTS RECEIVED

Vermont State Board of Education
Rule 2000: Education Quality Standards [#23P022]

Public Hearings: 9/13/2023; 9/28/2023; 10/3/2023
Public Comment Period: July 25, 2023 (filed) - 10/25/2023

This list includes short summaries of oral comment received at the public hearings held for Rule 2000: Education Quality Standards on the dates listed above. Comments that reflected written comment which were later submitted are not included.

Asserts that if public tax dollars are going to an independent school, it should have to adhere to the same standards as public schools.

Supports inclusion of Section B. The Jewish community continues to be treated as the exception to hate. Cites personal experience of antisemitism.

Requests that Act 1 Part B be included in the EQS in order to include the impact genocide and persecution have on people past and present. Cites specific personal examples of antisemitic behavior.

Cites specific examples of segregation in Vermont schools. Supports the EQS as a way to personalize the classroom by creating conditions that support each student's learning needs.

Cites specific examples of racism and antisemitism. Supports the EQS.

Supports Section B being included.

Supports Section B of the Vermont legislation. Supports teaching about America's antisemitic history in order to prevent this history from continuing.

Cites specific personal examples of antisemitic behavior.

Supports the updates to the EQS as proposed by the Act One Working Group. Cites specific personal examples of inclusion and exclusion in school settings. Asserts that they have not experienced personal specific examples of ethnic or racial discrimination, but recognizes that it is a significant issue in their district and beyond.

Opposes the elimination of Part B in Act 1. Pam's child cites specific personal examples of antisemitism they faced in schools. They assert that it is important for children their age to understand what it means to be Jewish and the impact of their actions.

Opposes the elimination of Part B in Act 1. Cites specific personal examples of antisemitism that their children faced in schools. Asserts that inclusive environments need to include all groups. Cites specific personal examples of antisemitism that other family members have experienced. Asserts that students and faculty are not aware of Jewish history and it is important that this changes.

Opposes the elimination of Part B in Act 1. Cites specific personal examples of antisemitism that their children faced in schools. Asserts that inclusive environments need to include all groups. Cites specific personal examples of antisemitism that other family members have experienced. Asserts that students and faculty are not aware of Jewish history and it is important that this changes.

Cite specific personal examples of antisemitism. Wants legislative definition to remain.

Supports Section B. Cites specific examples of racism and antisemitism.

Cites specific examples of racism and antisemitism. Supports keeping the specific language of the legislature.

Cites specific examples of oppression and antisemitism. Supports keeping Section B.

Asserts that excluding Jews from the ethnic group definitions is hypocritical for a state presenting itself as committed to social justice and equity. Requests the language of the original act be included.

See written comment by "Jewish Vermonters." Gave a personal oral statement separate from the group comment. Asserts that the standards as drafted provide an inclusive, anti-racist, and supportive school environment. States that by not naming any specific group it includes everyone. Opposes creating exceptionalism for discrimination against Jewish people.

Requests that Jews are included in the definition of ethnic groups. Asserts that removing Part B will increase the rates of antisemitism in Vermont. Asserts that educating students about antisemitism and Jewish culture is good for those who are Jewish and those who are not. Echoes the comments made by others stating that the original definition should be adopted.

Concern over the different standards for public and independent school who accept taxpayer dollars. If a school gets public funding, they should follow the same standards.

Supports the work of Act 1 working group pertaining to ethnic and social equity standards. Believes that Proposed EQS rule 2121.2 would cause issues by forcing unlicensed educators at independent schools to seek licensure. Licensure is not a determinant of educator quality. Values the autonomy that allows hiring qualified teachers through a robust recruiting and hiring process instead.

Supports Act 1 and believes that the same rules should apply to all schools.

Educational equality benefits everyone, not just those with additional needs. Creating two standards will have consequences such as losing diverse people, students, and families.

Independent schools that receive public funds should be held to the same standards as public schools. Allocating public funds to independent schools who discriminate goes against the Vermont Constitution. Independent schools lack the transparency of public schools but independent schools still accept public funds. If a school accepts funding, they should be subject to the same rules as public schools.

The vagueness in the language around Fine Arts in schools is concerning. Music education is declining in Vermont. The vague language makes music inaccessible and inequitable for all students. Music is important for emotional health and brain development, so there needs to be specific language to protect this important art.

Supports the EQS rules. The lack of education to students regarding racism and historically relevant events is unacceptable. Education is the solution to racism in the country. Ethnic studies is proven to increase graduation rates by over 15% as well.

Studying the genocide of a culture is different than studying the history and culture of the people.

Supports the EQS. It's important to have education leadership in equity across the state. Additionally, when an independent school accepts tax money, they should then be subject to the same rules as public schools.

Being specific is extremely important as it prevents cutting important things such as music education. We should remove the current obstacles and barriers to artistic expression, particularly music education but other forms as well and be specific in our rulemaking.

Act 1 should apply equally to public and independent schools funded by taxpayer dollars.

Racism is a huge issue throughout Vermont schools. Allowing separate rules will lead to two different standards and give privileges to some students over others. Passing the EQS is a step towards supporting all students.

Fully supports Act 1. It is important to the isolated rural students without proper resources are provided a "second home" at school so they have the opportunity to thrive. While still supporting Act 1, does not support having the entire education quality standard Rule services apply to everyone. The EQS should not apply to independent schools which are not governed by a school board or Superintendent. If applied, the EQS would seriously erode the institution's ability to govern itself, resulting in a slower reaction to issues. Additionally, there are many qualified educators that do not have a license, and by requiring one, the shortage of competent teachers would be increased.

Concern over the vagueness in the arts language in the curricular content. Concern that the vague language could water down the already lacking arts requirements in the curriculum.

Recommends returning to the same exact definitions that were already passed by the state legislature rather than the new definitions. The new definitions dramatically alter the definitions of the defined groups. By removing Part B of the definition of ethnic groups and placing the words genocide and persecution as things to be studied, ethnic studies in the Vermont educational curriculum will wind up erasing the study of Jews and other groups of people who have been subjected to a history of genocide and persecution. Definitions should require teaching about the Jewish people as an ethnic group since antisemitism is rarely about religion, and more so about ethnicity.

Urges the board to fully consider implications of any rule change and what a rule change would mean for the constitutional requirements of providing an equal education experience to Vermont students. Concern that having two sets of rules would lead to a substantially unequal educational experience.

Requests that the EQS include visual and performing arts in the curriculum. Asserts that art teachers request the EQS state clear how students will have access to enriching art programs.

Supports the statement of purpose in the EQS as well as the language throughout the EQS that support the statement of purpose.

Requests that independent schools that receive public tuition from Vermont taxpayer funded education fund be subject to the same rules as public schools. Supports the statement of purpose in the EQS as well as the language throughout the EQS that support the statement of purpose.

Requests that Part B be included and that students are taught Jewish culture alongside tragedy. Cites personal examples of antisemitism. Asserts that Vermonters need to learn more about Judaism and recognize it in communities.

Requests that Part B be included and that students are taught Jewish culture alongside tragedy. Cites personal examples of antisemitism. Asserts that Vermonters need to learn more about Judaism and recognize it in communities.

Asserts the importance of teaching about the persecution, successes, and experience of the Jewish community. Reiterates what Matthew Vogel said about the national strategy to combat antisemitism. Cites personal examples, examples in Vermont, and examples in the United States of antisemitic behavior. Requests that the original language of part B be put back in the curriculum.

Requests the inclusion of Part B in the EQS. Asserts that they agree with the rest of the curriculum, but do not agree with the exclusion of Act 1 Part B. States that Vermont should be upholding the federal national strategy combatting antisemitism.

Requests that Part B remain in the EQS as it originally was written. Cites personal examples and examples shared with them of antisemitic behavior.

SUMMARY OF ORAL COMMENTS RECEIVED
Vermont State Board of Education
Rule 2200: Independent School Program Approval [#23P037]

Public Hearings: 11/17/2023; 11/21/2023; 11/27/2023
Public Comment Period: October 13, 2023 (filed) – December 5, 2023

This list includes short summaries of oral comment received at the public hearings held for Rule 2200: Independent School Program Approval on the dates listed above. Comments reflecting written comment that were later submitted are not included here because they are filed separately.

1. Former Headmaster of Burr & Burton. Supports the rules as proposed. Does not support independent schools operating under same requirements as public schools. Cites longevity of some headmasters. Explains the practical challenges in operational structures that would not align (e.g. superintendents as CEOs). Provides examples of qualified educators who are not certified or licensed as they would need to be in public system.
2. Headmaster at Lyndon. The only high school options are Lyndon Institute and St. Johnsbury Academy (St. J) in the NEK. Supports rules; especially focus on ethnic and social equity, nondiscrimination requirements, and annual assurance. Does not support unilateral application of EQS. Details that teacher's credentials are already scrutinized. Having certification does not make you a better teacher. Requests that the Board give rules time to settle in before making more changes.
3. Head of School at Long Trail. Lack of local public-school options in the area. Supports rules. Values inclusivity - it's a big part of the school. Appreciates this process. Wants time to ensure rules can be enforced.
4. Member of the Board of Trustees of St. J; former member of the House. Supports rules and believes it's a reasonable compromise. Opposes application of EQS to Independent Schools.
5. Supporter of Christian School in Northeast Kingdom (NEK). Tried to become approved and had to withdraw application because they felt they were having to give up a lot of their Christian values and Christian principles. Thinks 2200 might be discriminatory toward Christian Schools and would like to see more consideration given for religious schools and Christian schools.
6. Supports rules and changes in support of social and racial equity. The Sharon Academy (TSA) and other approved independent schools are already doing a lot of work in this area. Many students live in poverty and are being strongly supported in the school.
7. Parent and board member at Bridge School. Advocates for schools being able to retain autonomy with respect to hiring practices. It is useful and has been beneficial. Cites examples, including those of her children as well.
8. Head of School at Riverside. Supports 2200 - specifically ethnic and social equity study standards and annual assurance. Good ideas. Doesn't support application of EQS to independent schools.

9. Head of School at Mountain School in Winhall. Supports the rules. They represent a good compromise of the different perspectives. Supports applying ethnic and social equity studies recommendations.
10. Would like her school (North Bennington) to have a union and for board meetings to be open to the public. Thinks these should be required. (Note: commenter noted that they were not sure if this comment was related to the subject matter of the hearing. This comment is included here for completeness of the record.)
11. Director of Special Services at St. J. Supports the rules. Sees value in the board structure of St. J, where the governing board is consistent and focused on the big picture. Also appreciates hiring autonomy.
12. Trustee at Lyndon Institute. Supports rules. Supports ethnic and social equity study recommendation and annual assurance requirements. Opposes application of EQS to independent schools. After implementing these updates, the Board should hold off on further changes until these changes have had time to settle in.
13. Represents VISA and Village School of North Bennington. Supports rules. Supports ethnic and social equity study recommendation and annual assurance requirements. Opposes application of EQS to independent schools. After implementing these updates, the Board should hold off on further changes until these changes have had time to settle in.

Langrock

SPERRY & WOOL

December 6, 2023

VIA EMAIL

Jennifer Deck Samuelson
Tammy Kolbe
State Board of Education
1 National Life Drive, Davis 5
Montpelier, VT 05620-2501
Tammy.kolbe@vermont.gov
Jennifer.Samuelson@vermont.gov

Re: Jewish Community of Vermont, Act I and EQS Request

Dear Ms. Samuelson and Ms. Kolbe:

My firm and Mr. James Pasch, Senior Director of National Litigation at the Anti-Defamation League (cc'ed here), write on behalf of our client, the Jewish Communities of Vermont ("JCVT") to clarify JCVT's request regarding the definition of "Ethnic Groups" in the proposed EQS.

JCVT insists that the definition of "Ethnic Groups" must be the exact one set forth in Act I. This definition was the result of the legislative process and was drafted, debated, and ultimately enacted by duly elected officials.

Furthermore, Act I does not grant a working group or subcommittee the authority to alter or modify any of the legislatively passed definitions, including "Ethnic Groups." Put simply, short of a legislative amendment, there is no authority for anyone to deviate from Act I's definition of "Ethnic Groups."

As it stands now, the subcommittee attempts to combine the legislatively enacted definition with the proposal from the Act I working group. This is problematic for a several reasons, including that the working group's definition is vague, ambiguous, overly broad, and functionally renders Act I's definition of "Ethnic Groups" meaningless.

In an October 30, 2023, article published on VT Digger (available at: <https://vtdigger.org/2023/10/30/anti-defamation-league-says-it-could-take-legal-action-if-ethnic-studies-rules-are-not-changed/>), the former chair of the Act I working group, Mr. Mark Hage, indicated that its proposed definition was designed to "honor everyone, irrespective of their racial identity, ethnicity, nationality, religion, culture, everyone" and to "celebrate all." This

REPLY TO: Burlington Office • WEBSITE: www.langrock.com • EMAIL: attorneys@langrock.com

MIDDLEBURY: 111 S. Pleasant Street, Middlebury, VT 05753 • (802) 388-6356 • Fax: (802) 388-6149
BURLINGTON: 210 College Street, Suite 400, Burlington, VT 05401 • (802) 864-0217 • Fax: (802) 864-0137

A Limited Liability Partnership Including a Professional Corporation

December 6, 2023

Page 2

approach and the working group's proposed definition defeats the legislature's carefully crafted, debated, and enacted definition of "Ethnic Groups." It also poses practical problems for educators because it is impossible to teach about and "celebrate all" (*id.*) over the course of a single school year.

The upshot is that the definition of "Ethnic Groups" must be the exact definition set forth in Act I, which reads:

"Ethnic groups" means:

- (A) nondominant racial and ethnic groups in the United States, including people who are Abenaki, people from other indigenous groups, people of African, Asian, Pacific Island, Chicanx, Latinx, or Middle Eastern descent; and
- (B) groups that have been historically subject to persecution or genocide.

Therefore, we are requesting that the definition of "Ethnic Groups" must be the exact same definition set forth in Act I.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin G. Sherman". The signature is fluid and cursive, with the first name being the most prominent.

Justin G. Sherman
James Pasch
jsherman@langrock.com
JGS:
2066756.2



10/23/23

<https://edjcoalitionvt.org/blog>

Talking about Gaza, Israel, and Palestine in Schools

Many youth and adults have been following the news and seeing divisive views presented regarding the violence in Gaza, Israel, and Palestine. It can be so easy to engage in either/or and us vs. them thinking. We are being confronted with challenging feelings and questions regarding religion, land rights, war, and genocide.

These feelings and questions and maybe even hate have been showing up in classrooms. This can be incredibly difficult to handle. We've put together some resources for talking about the violence and confronting Islamophobia and anti-semitism. We stand against anti-semitism and recognize its pervasiveness in Vermont schools and we understand that critiques of the Israeli state are not anti-semitic.

Curriculum

- [Creating Cultural Competencies: Countering Anti-Muslim Racism in Schools Curriculum](#)
- [Islamophobia is Racism: Resource for Teaching & Learning about anti-Muslim Racism in the United States](#)
- [Facing History & Ourselves: The Roots and Impact of Antisemitism](#)
- [Teaching About the Violence in Gaza and Israel: Zinn Education Project](#)
- [Challenge Islamophobia: A Project of Teaching for Change](#)
- [ReThinking Schools: Violence in Israel and Gaza](#)
- [TeachPalestine.org \[MECA\]](#)

Articles and Books

- [ReThinking Islamophobia: ReThinking Schools](#)
- [MHS Swastika not the only Antisemitic Incident in Schools](#)
- [Expelling Islamophobia: Learning for Justice](#)
- [How anti-Muslim sentiment plays out in classrooms across the US](#)
- [Free Ebooks for a Free Palestine!](#)
- [Decolonize Palestine: Palestine 101](#)
- [We are Palestinian: A Celebration of Culture and Tradition](#)

Reports

- [Islamophobic Bullying Rampant in US Schools: Report](#)

Organizations

- [Vermonters for Justice in Palestine](#)

- [Visualizing Palestine](#)

Restorative Justice Circles

- [Current Events Circle](#)
- [Violence in Gaza, Israel, and Palestine Circle](#)

Questions for Educators to Consider:

- How has anti-Arab xenophobia and racism associated with the recent events in Israel/Palestine impacted you, your students, and your school community?
- How can we interrupt xenophobic or racist comments, conversations, and harassment from our students or peers?
- How can we equip our students with the historical context and skills to discern when something is xenophobic and how they can respond?

Thank you Jade Walker and Wafic Faour for gathering many of these resources. **Do you have resources to add? Please share them with us by emailing kayla.edjvt@gmail.com.** We'll continue adding to this blog post.

The Coalition mourns the civilian loss of life, both **Palestinians** and **Israelis**, and wishes for a world without war. **We stand in solidarity for a free Palestine and echo the calls for a ceasefire.**

What else can I do?

- You can call for a ceasefire by contacting your representatives at [this link](#).
- **Attend the "Jews Say Ceasefire Now!" Burlington Rally** at 4:30pm on Church St. **(Sponsored by Jewish Voice for Peace)**
- Listen to **Mohammed El-Kurd speak about Palestine "Women and Children" and the Politics of Appeal** on Thursday, Oct. 26th at 7pm at UVM's Davis Center. **(Co-sponsored by VTJP)**

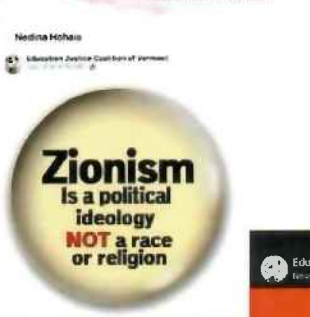


EJC is an Event Sponsor, post 10/26/23: <https://www.facebook.com/photo/?fbid=1716064628868976&set=a.596289730846477>



EJC shared event 10/17/2023 <https://www.facebook.com/events/283749891207338/?ref=newsfeed>
 Early on Saturday, October 7th, Palestinian resistance fighters broke through Israel's siege of Gaza. In response, Israel has declared total war against the people of Gaza, completely cutting off access to food, water, and electricity, while bombing the Strip and killing entire families.
 This panel, featuring Wafic Faour (Vermonters for Justice in Palestine)... will discuss how to understand the current situation in Palestine, the 17-year siege of Gaza, and questions of resistance, colonialism, the role of Biden and US imperialism, and mass struggle

Additional EJC social media posts:



Education Justice Coalition of Vermont

-- Posts post-October 7, 2023 --

Website

<https://edicoalitionvt.org/>

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Core Members

Our core members are affiliated with organizations and schools across the state of Vermont. We have representation from the following groups:

[Outright Vermont](#)

[March Justice](#)

[SafeMn Vermont](#)

[ACLU-VT](#)

[Rights and Democracy](#)

[Vermont Abolish Arts Association](#)

[Vermonts for Justice in Palestine](#)

[NAACP Vermont](#)

[Vermont Parent Organization](#)

[Vermont Family Network](#)

[TeachVT](#)

[Building Teachers' Futures](#)

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[Talking about Gaza, Israel, and Palestine in Schools — Education Justice Coalition of Vermont \(edicoalitionvt.org\)](#) (archived: [Blog — Education Justice Coalition of Vermont \(archive.org\)](#))

[Events — Education Justice Coalition of Vermont \(edicoalitionvt.org\)](#) (archived: [Events — Education Justice Coalition of Vermont \(archive.org\)](#))

Instagram — n/a

Twitter

 **Education Justice Coalition of Vermont**
@EdJCoalitionVT

Today at 7pm! Attend online or in person. Hear from coalition members, Wafic Faour and Debra Stoleroff. <https://www.facebook.com/edjco/283274588>



Oct 17 ISRAEL, GAZA, AND THE STRUGGLE FOR PALESTINE

Interested Going Share More

Your response is visible to the hosts and  Friends >

 **Public** · Hosted by **Tempest**

 **Today at 7 PM – 9 PM**
Starts in about 10 hours

 **O.N.E. Community Center, 20 Allen Street, Burlington, VT**

 **Education Justice Coalition of Vermont**
@EdJCoalitionVT

We are being confronted with challenging questions regarding religion, land rights, war, and genocide - some may be showing up in classrooms. We've gathered resources for talking about the violence and confronting Islamophobia and anti-semitism. edjcoalitionvt.org/blog/talking-a

#vted



6:00 AM · Oct 23, 2023 · 68 Views



Education Justice Coalition of Vermont
@EdJCoalitionVT

...

Outright and EdJ brought 19 youth together for a youth organizer training. A local Jewish educator led a teach-in about Palestine. The youth were given the option to join the rally and march in solidarity with Palestine or stay in and discuss what solidarity looks like. #vted



12:36 PM · Nov 6, 2023 · 84 Views




Education Justice Coalition of Vermont
@EdJCoalitionVT


...

Join Jewish Voice for Peace VT/NH for this event: Educators will be provided context, history, and tools to teach about Palestine in their classrooms while addressing fears and concerns regarding teaching this topic in K-12 schools. Register now: edjcoalitionvt.org/events/teachin . #vted

TEACHING PALESTINE

Educators will be provided context, history, and tools to teach about Palestine

 SUNDAY DEC. 3RD

 10AM-3PM

 MONTPELIER/BARRE AREA



4:36 PM · Nov 15, 2023 · 93 Views

Facebook

Education Justice Coalition of Vermont
 October 17

You can attend in person or online! Hear from Coalition members Wafic Faour and Debra Stoieroff



ISRAEL, GAZA, AND THE STRUGGLE FOR PALESTINE
 ONE Community Center, 20 Allen Street, Burlington, VT
 45 people interested

ISRAEL, GAZA, AND THE STRUGGLE FOR PALESTINE

Details

17 people interested

Event by Vermont

ONE Community Center, 20 Allen Street, Burlington, VT

Duration 1 hr

Public Anyone can attend for free

Early on Saturday October 17th, the Education Justice Coalition will host the first of two events in response to the recent violence against the people of Gaza. Community members will gather to hear Wafic Faour and Debra Stoieroff, who embody the life and living of the families. This event featuring both Faour and Stoieroff will be held in partnership with ONE Community Center and the Vermont Education Justice Coalition. We will discuss how to understand the current situation in Palestine, the role of Gaza, and questions of resistance, including the role of Israel and its occupation and mass struggle.

Event Registration Information
 Time: 10:00 AM - 11:00 AM Eastern Time
 Free admission, donations welcome

Sponsored by Burlington Vermont Education Justice Coalition for Justice in Palestine. Event is limited to ONE Community Center. For more information for Peace and Human Rights, please contact the Vermont Education Justice Coalition at info@educationjusticevt.org. **See you**



Teaching Resources for discussing Gaza, Israel, and Palestine

tinyurl.com/TeachingResourcesGaza

Education Justice Coalition of Vermont
 October 23

Many youth and adults have been following the news and seeing divisive views presented regarding the violence in Gaza, Israel, and Palestine. It can be so easy to engage in either/or and us vs. them thinking. We are being confronted with challenging feelings and questions regarding religion, land rights, war, and genocide.

These feelings and questions and maybe even hate have been showing up in classrooms. This can be incredibly difficult to handle. We've put together some resources for talking about the violence and confronting Islamophobia and anti-semitism. <https://edcoalfromvt.org/talking-about-gaza-israel/>. We stand against anti-semitism and recognize its pervasiveness in Vermont schools and we understand that critiques of the Israeli state are not anti-semitic. See less

5

Education Justice Coalition of Vermont

Burlington was the second youth organizer training day of the school year and it brought 14 youth together from all over the state to learn about education and a youth in education. The youth were given the option to join the city and march in solidarity with Palestine in May and discuss what solidarity means to them. Many youth attended the city and March. Some of them even spoke at the rally. Other youth were in Burlington to discuss the educational differences that organizers posted at the city and March using the social change organizer map.

Here is what the youth said at the city: (I have an offer to take it social application and engagement in case of social transformation. The student's issue is a complete education. (I have a social justice, communication and social as a first and see the future. All youth speak in a future. Palestine. Higher education groups. It is a gathering that is funding the murder of children by the hundreds. It is a gathering for an immediate ceasefire. It is a gathering group to see a New Palestine.



NEVER AGAIN FOR ANYONE

CEASEFIRE NOW

Rally 5:30pm, Thurs Nov 9
steps of Burlington City Hall

Call on our congressional leaders for:

- an immediate ceasefire
- humanitarian aid to Gaza
- no more military aid to Israel

Education Justice Coalition of Vermont

November 7 at 5:24 AM

Join us this Thursday, November 9th, at 5:30pm at Burlington City Hall. Show up in solidarity with Palestine!

7



Education Justice Coalition of Vermont
 November 15 at 7:59 AM

Join us on Sunday, Nov 19th at 7 pm EST for guided meditation, silence and space as we turn our hearts, our bodies and our minds toward Palestine. This is a space for us to be in relationship with our heartbreak, our confusion, our anger, our resistance, our numbness as we center the humanity of a population of people, a culture, and a land under attack. Participants will be guided in earth-based meditation practices of receiving care and support so that we may offer all that arises to a love greater than our ideas, our reactions, and our beliefs. A love that invites forth our greatest capacity as human beings. We invite participants to bring the following: a candle/light, a small bowl of water. Come as you are with all that you hold, in love and courage. Catarina, Denise, and Jabari. Google Form & Info: link in bio. [See less](#)

5



Education Justice Coalition of Vermont
 November 15 at 4:40 PM

We know Teaching Palestine takes a lot of courage. In this historic moment, Jewish Voice for Peace VT/NH wants to help you learn and grow as an educator on Sunday, Dec. 4th 10am-3pm in the Montpelier/Barre area. During our event, we will be reviewing history, current events, and connections to struggles across the globe. Educators will be provided context, history, and tools to teach about Palestine in their classrooms while simultaneously addressing fears and concerns regarding teaching this topic in K-12 public and private schools. Register by Dec. 29th: <http://peacemedia.com/teach-palestine-a>.

Please also note: This event is for educators who want to teach about what is happening in Palestine including the history of the occupation and the current conditions of apartheid. This event is not a space to debate whether or not the occupation is just or unjust; at this event we will take as a starting point that this is an unjust occupation and move into learning and teaching from that point. [See less](#)



Education Justice Coalition of Vermont

November 15 at 7:40 PM · 🌐



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TEACHING PALESTINE

Educators will be provided context, history, and tools to teach about Palestine



SUNDAY DEC. 3RD



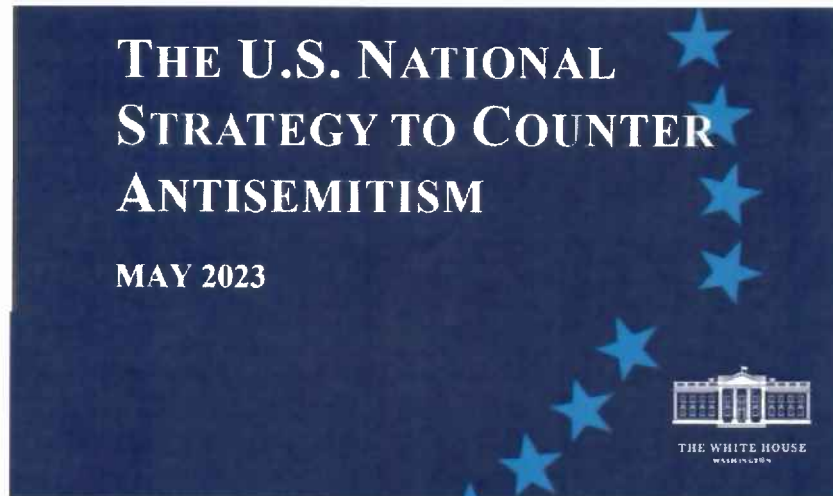
10AM-3PM



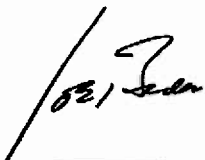
**MONTPELIER/BARRE
AREA**



**JEWISH
VOICE
FOR
PEACE**



Through this U.S. National Strategy to Counter Antisemitism, we are taking a historic step forward. I am proud to lead my Administration's efforts to counter antisemitism, and I urge all Americans to join me in ensuring that in America, evil will not win. Hate will not prevail. The venom and violence of antisemitism will not be the story of our time. The power lies within each of us to transform that story. To rise together against hate. To show the world who we are. And to restore the soul of America together.



In May 2023, President Biden issued a first-in-US-history nationwide alert to "confront antisemitism in America with urgency" and "U.S. National Strategy To Counter Antisemitism" road map.

A key focus is President Biden's "whole-of-society" call to action which includes K-12 Departments of Education, County Offices of Education, and school districts providing "readily available quality educational resources."

We call on state and local governments to include Jewish studies in ethnic studies and history curricula. Lessons should include Jewish history, as well as curricula on positive Jewish contributions to America, Jewish diversity, and manifestations of contemporary antisemitism.

More education [is needed] on Jewish American history and the valuable role that Jews have played in our national story.

President Biden highlights the need for students to also learn about the United States and global histories of antisemitism, including the Holocaust, and "histories of antisemitism experienced by Sephardic and Mizrahi Jews—who trace their ancestry to Spain, the Middle East, and North Africa—and their stories of exclusion, persecution, and expulsion."

President Biden, embracing the most prominent definition of antisemitism, the International Holocaust Remembrance Alliance (IHRA)'s working definition, reiterates the United State's "unshakable commitment to the State of Israel's right to exist, its legitimacy, and its security [and] recognize[s] and celebrate[s] the deep historical, religious, cultural, and other ties many American Jews and other Americans have to Israel." <https://www.whitehouse.gov/wp-content/uploads/2023/05/U.S.-National-Strategy-to-Counter-Antisemitism.pdf>

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COMMENTARY

California schools should opt for inclusive ethnic studies



BILL HONIG

PUBLISHED JUNE 26, 2022

14 COMMENTS



REPUBLISH



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present racism and discrimination at the hands of individuals and institutions.

- Addresses the residual effects of past discriminatory actions.
- Highlights ethnic groups' positive impact on the broader society.
- Teaches respect for individuals who, despite discrimination, have led exemplary lives.
- Avoids a zero-sum mindset in which gains for one group mean losses for another.
- Rejects that society's main currency is power and privilege.

Inclusive ethnic studies does not prioritize group membership over the uniqueness of each individual *and so*:

- Rejects group identity as the primary lens to understand history, society, culture and politics.
- Advances the importance of an individual's characteristics — such as character, personality, interests and talents — to their path to purpose and success.

Inclusive ethnic studies programs that adopt these principles inspire all students to embrace their own and others' cultures, develop their individual potential, appreciate our common humanity and continue the important work of advancing America's quest for a more perfect union.

In contrast, there is a new genre of ethnic studies — “liberated” ethnic studies — marketed as “the authentic” version. With ideological roots in the 1960s Black Power movement's neo-Marxist and liberationist and university-promoted critical theory, “liberated” ethnic studies is part of a political movement centered on race consciousness that seems intent on alienating youth from our institutions. Presenting non-whites as victims and whites, individually and collectively



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Developing young citizens devoted to a unified, diverse and democratic society with dignity, fair treatment and justice for all Americans is a daunting but crucial educational task.



For our democracy to survive, each new generation must embrace democratic values and respect common humanity. Consequently, school districts should provide fact-based history courses and a robust civics education. Ethnic studies courses should complement these efforts by teaching critical thinking skills that value context and objectivity and reinforcing our country's long-held democratic practices and ideals.

...

Bill Honig is a former California state superintendent, and subsequently chair and vice chair of the [California Instructional Quality Commission](#). An expanded version of this commentary can be found [here](#).

The opinions in this commentary are those of the author. If you would like to submit a commentary, please review our [guidelines](#) and [contact us](#).

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REPUBLISH





JIMENA

Jews Indigenous to the
Middle East and North Africa

JIMENA & K-12 Education November 6, 2023

JIMENA: Jews Indigenous to the Middle East and North Africa is a San Francisco, CA based organization that was created to raise awareness to the heritage, history and rights of the one million Jewish refugees from the Middle East and North Africa and their descendants, who now comprise more than half of Israel's Jewish population.

JIMENA has a proven track record of creating impactful solutions to help public schools and education agencies nationwide learn about the various manifestations of antisemitism and the experiences of Jews from North Africa and the Middle East. During this critical time of surging antisemitism from the far-left, it is essential to counter misinformation about the Middle East, put forward factual information, and propose solutions related to antisemitism emanating from the Middle East. Additionally, building relationships with influential local, state, and national leaders who can help prevent the alarming rise of antisemitism our state and society are currently facing is crucial.

JIMENA remains committed to advocating for the rights of all students to access rigorous social science curriculum and schools that are free from bias and denigrating language concerning Israel, Jewish people, and the Middle East. We continue to design and implement a number of interventions to help school districts and states support Jewish communities while educating the public on these subjects both inside and outside the classroom. The White House's U.S. National Strategy to Counter Antisemitism¹ included JIMENA's suggestion of teaching the antisemitism experienced by Jews in North Africa and the Middle East in public schools.

"In addition to learning about the horrors of the Holocaust, students should learn about global histories of antisemitism. This should include histories of antisemitism experienced by Sephardic and Mizrahi Jews—who trace their ancestry to Spain, the Middle East, and North Africa—and their stories of exclusion, persecution, and expulsion. Students should also learn about the history of antisemitism in the United States as well as contemporary manifestations of antisemitism. Educators need readily available quality resources to enable such education." <https://www.whitehouse.gov/wp-content/uploads/2023/05/U.S.-National-Strategy-to-Counter-Antisemitism.pdf>

¹ <https://www.whitehouse.gov/wp-content/uploads/2023/05/U.S.-National-Strategy-to-Counter-Antisemitism.pdf>

A comprehensive outline of JIMENA's activities in the K-12 space can be found here². Some of our successes in this space include:

- Led successful statewide effort to ensure that antisemitism is addressed in California's Ethnic Studies Model Curriculum and prepared an antisemitism lesson for teachers, centering around the IHRA antisemitism definition, that the California State Board of Education included in its final model curriculum.
- Presented with California State Superintendent Tony Thurmond on the California Department of Education's "Education to End Hate: Countering Antisemitism" initiative³ to educate the public and California teachers about antisemitism and how to address it in public schools.
- Participated in listening sessions for the design of the White House's National Strategy to Counter Antisemitism⁴ with the final report including JIMENA's key recommendations -- teaching about antisemitism in Ethnic Studies courses and the history of Mizrahi and Sephardic Jews, particularly their refugee experiences, in Social Studies classes.
- In response to the White House's National Strategy to Counter Antisemitism's call to action, developed a comprehensive collection of lesson plans on Sephardi and Mizrahi Jews⁵ and antisemitism that the California Department of Education distributed widely.
- Participated in the United States Department of Education's Antisemitism in Education gatherings⁶ in San Francisco, and New York City, lending our expertise to Federal, State, County, and City education officials and school district superintendents.
- Hosted conferences⁷ for educators to learn more about Sephardic and Mizrahi Jews and subjects related to antisemitism.

² <https://www.jimena.org/jimena-californias-ethnic-studies-model-curriculum/>

³ https://www.facebook.com/watch/live/?ref=watch_permalink&v=184124838018844

⁴ <https://www.jimena.org/sephardic-and-mizrahi-jews-included-in-white-house-strategy-to-counter-antisemitism/>

⁵ <https://www.jimena.org/sephardic-and-mizrahi-lesson-plans/>

⁶ https://www.timesofisrael.com/biden-includes-antisemitism-in-civil-rights-act-protections-at-8-cabinet-departments/?__cf_chl_tk=kIidcuVnvfuSFmsEwHeDvRFJ0FEwbH17Nf53Ql0R4bA-1698866754-0-gaNycGzNFmU

⁷ <https://www.facebook.com/watch/JIMENAVOICE/5033810403385876/>

From: Mary Lundeen <mary.lundeen@mmuusd.org>
Sent: Wednesday, October 25, 2023 4:22 PM
To: Diop, Mohamed <Mohamed.Diop@vermont.gov>; Fearon, Grey <Grey.Fearon@partner.vermont.gov>; Gleason, Kimberly G <Kimberly.G.Gleason@vermont.gov>; Kolbe, Tammy <Tammy.Kolbe@vermont.gov>; Jepson, Lyle <Lyle.Jepson@vermont.gov>; Lovett, Tom <Tom.Lovett@vermont.gov>; O'Farrell, Jennifer <Jennifer.OFarrell@vermont.gov>; Samuelson, Jennifer <Jennifer.Samuelson@vermont.gov>; Werner, Richard <Richard.Werner@vermont.gov>; Wilburn, Aaliyah <Aaliyah.Wilburn@partner.vermont.gov>; Bouchey, Heather <Heather.Bouchey@vermont.gov>
Cc: Brian Campion <bcampion@leg.state.vt.us>; Peter Conlon <pconlon@leg.state.vt.us>; Reed-EXT, Pam <pam.reed@rcpsvt.org>; kbenway <kbenway@svuvt.org>
Subject: Independent Schools, Public Education and the Education Quality Standards Public Comments

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Dear State Board of Education Board Members, Sec. Bouchey, Rep. Conlon, and Senator Campion:

Please see the attached public comments from the Vermont Council of Special Education Administrators (VCSEA) related to the EQS and Independent Schools.

Best Regards,
Mary Lundeen
Past President of VCSEA

cc: Pam Reed, VCSEA President
Kris Benway, VCSEA President-Elect

--

Mary K. Lundeen, M.Ed.
Director of Special Services
Mount Mansfield Unified Union School District
10 River Road
Jericho, VT 05465
Phone: (802) 434-2128
Fax: (802) 899-4001
mary.lundeen@mmuusd.org

VT Special Education Parental Rights/Procedural Safeguards

"The illiterate of the future will not be the person who cannot read. It will be the person who does not know how to learn."

~ Alvin Toffler



To: The Vermont State Board of Education
Rep. Peter Conlon, Chair Vermont House Education
Sen. Brian Campion, Chair Vermont Senate Education

From: The Vermont Council of Special Education Administrators (VCSEA)

Date: October 25, 2023

Re: Independent Schools, Public Education and the Education Quality Standards

The following comments are being submitted on behalf of The Vermont Council of Special Education Administrators (VCSEA). VCSEA is an organization dedicated to providing **leadership for the education of all children with a specific focus on students with disabilities.**

VCSEA supports the purpose of the Series 2000 Education Quality Standards to, “ensure that all students in Vermont public schools are afforded educational opportunities that are substantially equal in quality and enable them to achieve or exceed the standards approved by the State Board of Education. These rules are designed to ensure continuous improvement in student performance, instruction and leadership to enable students to attain rigorous standards in high-quality programs.”

VCSEA’s position is that the EQS standards must become part of the independent school approval process.

Our concerns with the Series 2000 Education Quality Standards are as follows:

1. Independent schools are not being held to the same standards related to assessment that the public schools are required to follow. This accountability is necessary to “enable students to attain rigorous standards in high-quality programs.” Independent schools must implement an assessment system that consists of formative and summative assessments and provides data to inform instruction, measure progress, and assist teams in ensuring students meet graduation requirements.
2. A process for ensuring that independent schools meet the criteria for high-quality programs is not evident in the proposed EQS rules. The Individuals with Disabilities Education Act (IDEA) requires Local Education Agents (LEAs) to

document adequate student progress as a measure of a Free Appropriate Public Education (FAPE). Assessment data, which is tied to the state standards, is used to document individual student growth, as well as to assist IEP teams in determining the need for Extended School Year Services (ESY). Without clear and accurate data indicating adequate progress, school districts may be responsible for providing unnecessary special education services, causing additional financial responsibilities for public education..

3. The Vermont Agency of Education currently lacks the authority to provide oversight and monitoring to Independent Schools serving students with disabilities. **It is critical that the Agency of Education be granted the regulatory authority to monitor the financial accountability of independent schools because public funds are being used to pay tuition costs. Accounting procedures consistent with the Generally Accepted Accounting Principles (GAAP) is necessary.**
4. Teacher licensure for independent schools, particularly for those professionals providing special education services, must mirror that of professionals working in public schools. Students with disabilities are our most vulnerable students. They deserve and require highly skilled individuals who understand learning differences, and understand how to modify and adapt curriculum based on the student's unique needs. Without appropriately certified and licensed teachers, instruction and student growth is compromised.
5. The LEA is responsible for the provision of a Free Appropriate Public Education (FAPE) for every student eligible to receive special education services. It is imperative that LEA representation or a VCSEA representative is an active part of each independent school review process. This will ensure that the requirements of the Individuals with Disabilities Education Act (IDEA) and the VT Special Education Rules and Regulations are being followed, and that students are provided with a FAPE. Parents have due process rights when FAPE is compromised which has financial implications for the District on top of the educational loss to the student.

To Chair Jennifer Samuelson and members of the VT State Board of Education,

This letter is probably coming too late because I am out of the country and currently following a different timeline. I entreat you to include this comment with the others, especially since I served on the Act 1 working group for the last four years. I am writing to strongly urge you to reconsider replacing the language that our group, which also included representatives from the VT Agency of Education, sought so hard to nuance as the definition for anti-discrimination. I ask you to reconsider for a couple of reasons. The first is more related to logistics. Why object to the language now when in the months leading up to the completion of this document, which included forums and surveys that adhered to the process, there was ample time to discuss the legality of language. Furthermore, I understood that the attorney overseeing EQS found no issue with it, while the attorney for '2200' expressed concerns about liability. How do we make sense of this discrepancy?

It is honestly disappointing for people on the committee who represented some of the most diverse and historically marginalized communities in the state of Vermont. Backpedaling now just signals to these communities that these processes can get taken over quite easily in the end, and that appearance becomes more important than authentic change. I would love more transparency around whom this language would really impact. Who would object to such language that is meant to be inclusive?

The second reason relates to the amazing position that Vermont has always been in to make changes because of its progressive history. I moved here 20 years ago and have always felt grateful for the opportunity to develop my career in higher education and to meet people/teachers/administrators who have aspired to be equity-centered. It's important to me as a second generation Filipinx American who grew up in the U.S. never seeing myself reflected in U.S. history (except as it pertained to colonial history) in the schools until graduate school. Even to this day, very few people really know about Filipinos in the U.S. or that many Filipinos align themselves historically, socially, and culturally with Latinx communities - the "Latinos of Asia" (Ocampo, 2023). My parents assimilated when they came to the U.S. stripping themselves from their Filipino accents. They told me I had to speak perfect English, and I did manage to do all that and I was rewarded, but at such a high cost that it was hard for me to relate to any Filipino communities that I came across. Fortunately, as I came to learn about ethnic studies, I began to find more affiliation with others and community. But this didn't happen until I was an older adult. Why must it take so long to support students who do not see themselves in the school curriculum? The nuanced definition for anti-discrimination would be symbolic for students and families, because they would feel they are being heard and protected, thus feeling like they belong in Vermont.

I understand that language is such a complicated thing and I appreciate the State Board's concern about making sure that people are protected. If maintaining the language that the Act 1 committee developed seems a liability, could the board through Attorney Sarah Buxton please provide us with the legal analysis and substantive reasons for liability, other than what Buxton was quoted saying in the VTDigger article. Buxton is quoted as saying the following: "The addition of more protected classes "would exceed what current state and federal law provide and, if that is the case, could be potential sources of litigation," Buxton said, according to the minutes. She said the language could also be interpreted to "exclude" school programs "such as French Club, Girls on the Run, etc," the minutes showed." These examples do not seem to hold up for me. In reality, these examples reflect enrichment programs supported by the most affluent communities. It is difficult for me to see how such programs could be threatened by the new anti-discrimination language. I would ask us to consider: How are we using this language in the first place, and who does it protect if not the communities we have been trying to represent in our work through the Act 1 working group?

It is such a challenging world that we continue to live in where equity and socially just initiatives are being targeted, and unfair expectations are being placed on schools and teachers who are finding it harder and harder to welcome students especially with intersectional identities across disability, income level, race, ethnicity, language, religion, gender, and indigeneity. All the work of the Act 1 working group was anchored to the hope of making these protections more explicit. Isn't that what we all want for our Vermont children and youth. I really hope the Board will reconsider its decision, or, at least, be open to discussing this issue further and coming together on a resolution that would satisfy both groups?

Thank you in advance for reading my letter.

Sincerely yours,
Cynthia Reyes

Chair Jennifer Samuelson and members of the VT State Board of Education,

I am writing to indicate my strong opposition to altering the changes made to the proposed EQS Manual. Especially those changes that define discrimination, expressly prohibit it and expand protections against it. Oppressive and discriminatory structures have been identified in our systems, without explicitly naming and addressing these injustices we are complicit.

I also ask for transparency in the State Board's decision making process, and that the legal analysis which raised concerns for liability be shared with the general public.

Respectfully,
Christa Mordoff
Colchester, VT

Dear Agency of Education:

Good evening, the Vermont Educational Equity Collective (VEEC) is happy to provide a letter in support of the EQS Recommendations.

VEEC is a collective of educational equity leaders transforming Vermont culture by holding educational institutions, organizations and policymakers accountable to creating equitable systems by consistently naming and dismantling structures of oppression that disproportionately impact those farthest from justice, with an emphasis on intersectionality and the indelible impact of race.

Please see the attached letter from VEEC. We hope you pass these standards which are for the good of all students in our state.

Thank you for your consideration.

Con mucho aprecio/ With gratitude,

maria davies (she | her | hers | ella)

Diversity, Equity, Inclusion Coordinator | Coordinadora de Equidad

GMTCC Building Room T-34

Lamoille North Supervisory Union

Office: 802-851-1569

Mobile: 802-730-6398

Fax: 802-888-7908

Email: mdavies@lnsd.org

Diversity and Inclusion is about giving value to every human being no matter our differences. -

Anonymous-

"Equity" means that every child gets what he or she needs to succeed, as opposed to everyone getting the same thing. - Alan Blankstein-

"If they don't give you a seat at the table, bring a folding chair.", Shirley Chisholm

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Con mucho aprecio/ With gratitude,

maria davies (she|her|hers|ella)

Diversity, Equity, Inclusion Coordinator | Coordinadora de Equidad

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"Equity" means that every child gets what he or she needs to succeed, as opposed to everyone getting the same thing. - Alan Blankstein-

"If they don't give you a seat at the table, bring a folding chair.", Shirley Chisholm

Windsor Southeast Supervisory Union
105 Main St, Suite 200
Windsor, VT 05089



Vermont Board of Education
Education Quality Standards Committee
Agency of Education
1 National Life Drive, Davis 5
Montpelier, VT 05620-2501

Re: Public comment on the Education Quality Standards (Rule Series 2000)

October 24, 2023

To: Chair Jennifer Samuelson and members of the VT State Board of Education

Dear Chair Samuelson and VT State Board of Education,

Please accept these comments on behalf of the Windsor Southeast Supervisory Union (WSESU). At WSESU, we strive to be an educational system where students want to learn, staff want to work, and families want to live. We are invested in creating an equitable, anti-racist school culture where every student feels a sense of belonging, especially those furthest from justice. We are committed to graduating students with the essential skills of empathy, perseverance, integrity, communication and critical thinking.

We have been watching and supporting the development of the Educational Quality Standards (EQS). We have submitted public comments in favor of the focus on equity and inclusion. With four years of dedicated work that has gone into crafting these standards for the benefit of our students, we were surprised to read about a move to dilute language in the EQS in a [VT Digger article](#) from October 17th where, "Buxton told members that the original language proposed by the working group could have "potential unintended consequences.""

Although Buxton appears to have an impressive track-record of launching and engaging in many civic and community based groups, it is curious how the perspective of one white woman outweighs four years of dedicated community effort. What does this communicate about equity & inclusion when heeding Buxton's advice could be construed as action perpetuating patterns of holding power "over," with a lack of transparency in decision-making. To move a successful,

comprehensive community-based approach to one behind closed doors leaves us wondering whether it is the education of our youth or protection from liability that you are moved by. We ask the State Board to be transparent in its decision-making process and to share the legal analysis by the attorney who expressed concerns about liability.

We additionally request that you retain the strong anti-discrimination definition originally drafted by the working group in the EQS. Expanding protections offered by the working group to explicitly prohibit discrimination on the basis of "ethnicity, caste, language and linguistic diversity, socio-economic status, religion, housing status, and non-citizenship or immigration status" should not be discarded or altered due to concerns about liability. The addition of these categories invites our broader community into the conversation. They can see themselves and the experiences of their family and children in these categories. It creates more inroads for collaboration at the community level when people feel seen. That these categories are not yet considered protected classes seems to indicate that the laws need to change NOT the language in the EQS.

At a time when we are witnessing increasing polarization in our ideologies on local and global levels, and the experience of hate and discrimination ever so present in our communities and schools, we encourage you to hold the wellbeing of our most vulnerable at the forefront of your decision-making knowing that we are stronger together. You have a responsibility to serve and respond to community needs. Those have been clearly expressed by the working group. We encourage you to embrace your role as leaders and be a model for equity and inclusion.

Thank you for your leadership and for taking our comments into consideration.

In community,

A handwritten signature in black ink, appearing to read "Traci Price". The signature is fluid and cursive, with the first name "Traci" being more prominent than the last name "Price".

Traci Price
WSESU Diversity, Equity and Inclusion Coordinator

1. Dear Chair Samuelson and members of the State Board:

Every Vermont child and their family should know and trust that their public and independent schools are sincerely and passionately committed to protecting them from discrimination.

I ask the State Board not to alter the wording of "Statement of Purpose" or the definition of "discrimination" in the proposed EQS Manual.

We owe it to Vermont's students in our schools to protect them from discriminatory harm in all circumstances, even when state and federal law do not provide us with the tools to conduct anti discrimination interventions outside the parameters of "protected classes."

In order to ensure all Vermont's children are protected, and can thrive, you must expressly prohibit all forms of discrimination in our schools, and expand protections against it.

Sincerely,

Heidi Albright

heidi albright (she/her)
blackwolfe@me.com

www.cloudmountainlivingarts.com
www.thirdbranch.com

To: State Board of Education

From: Susan Schoenfeld

Date: 10/24/23

Re: Educational Quality Standards

I am a resident of South Burlington. While I have no children currently in the school system, I strongly believe in the importance of education in supporting our community's children so that they can thrive and become good citizens. Learning to recognize and address all forms of discrimination, including racism, antisemitism, attacks on our LGBTQ+ community, etc, is essential I have followed the important work of Vermont's Act 1 working group. Here are my current concerns:

1. I support the original anti-discrimination wording. There appears to be no legal agreement about the need to weaken this language. This should not be a area of compromise.
2. I am concerned about allowing independent schools to get a waiver rather than follow the statewide guidelines. Assuming that taxpayer money goes to these schools, why should there be compromise on this important point? Also, in looking at the space I saw for requesting a waiver didn't see any guidelines as to what would be mandatory in a waiver. Perhaps I missed this, but again- I don't think this should be allowed.

Thanks to the Working Group for the work done on creating the guidelines, and thanks for the opportunity to provide feedback.

Hello-

I am writing to provide some feedback on the Education Quality Standards (Rule Series 2000).

Specifically under:

"2120.5. Curriculum Content...

f) artistic expression (including visual, media and performing arts);"

This proficiency category needs to be renamed.

Artistic Expression is not a content area, nor is it aligned with the state board approved student learning standards, National Core Arts Standards. A better title for the content area category would be "The Arts."

Additionally, the Arts includes 5 artforms: Visual Art, Music, Theater/Drama, Dance, and Media Arts. Some flexibility might be necessary for Vermont schools about what they are financially able to offer, but a minimum of Visual Art and Music should be provided with some guidance similar to the PE section.

With the timely transition to science of reading approaches things like standards alights arts, social studies, and science, are being let go in favor of more minutes for literacy. Literacy and Math are very important, but how can we balance the pressures of proficiency in math and literacy with the needs of a well-rounded education? The Arts need to be protected in elementary school with explicit language in Vermont's Education Quality Standards.

Thank you,
Emily

--

(she/her)
Arts Coach
Integrated Arts Academy
6 Archibald Street
Burlington, VT 05401

Tel: (802) 864-8475

Public Comment:

I am writing as a resident of Washington County, parent of a future public-school student, and teacher employed in Chittenden County.

As an educator in Vermont, I have seen many “initiatives” come and go. Often, they are well intentioned, but fail to meet the very real needs of our most vulnerable students. I believe this failure is often rooted in the architecture, and architects, of change. Too often school-based changes are constructed by those who are, or have been, members of school administration and/or teaching staff who have gone on to fill positions at the Agency of Education or sat on committees run by the state. While it is true that those within the system are often well positioned to create change, it is also true that we can very easily overlook the changes most necessary to those experiencing the system first-hand. Additionally, and perhaps most importantly, when change is created by those who are members of the educational workforce, we must examine the identities and positions from which decisions are made. Here in Vermont, that often means a very white, able-bodied, neurotypical perspective.

Much has been written about the incredible work led by the architects behind Vermont’s Act 1 working group. It is a dedicated body with incredible knowledge rooted in both study and lived experience. For the first time, to my knowledge, those most impacted by changes to educational policy were not only invited to the table, but were those constructing it. The working group was designed with inclusion in mind. It sought to elevate multiple perspectives in an effort to better serve all of Vermont’s students.

While I could speak to the risk of changing the language of the EQS at this late stage, I could speak to its intention and function, I’d like to instead point to a pattern repeating: those with the most institutional power are, once again, attempting to be the architects of change. When considering changes to the language of anti-discrimination, I believe it’s important that we look to see who is asking for what, and why.

When the community leaders behind Education Act 1 say that this language is needed, I believe them. I know that their perspective is rooted in experience and connection back to our most vulnerable students. Further, I know that what we have tried before simply has not worked and we must try something new. One need only look to the most recent YRBS data to see that our students are not having consistent experiences of school. I believe the State Board of Education should respect the expertise and time of the working group and understand that at this moment we can choose a new path forward: one that is far more inclusive and inviting, one that, hopefully, can positively impact the experiences of all our students.

Sincerely,
Christie Nold

Good morning,

I write to you today to strongly endorse Amanda Garces and Mark Hage's response dated Oct 15, 2023 to Chair Samuelson's Oct 12, 2023 memorandum.

I urge the members of the State Board to retain the strong anti-discrimination definition put forth by the members of the Act 1 Working Group in the EQS. In addition, I ask that the State Board be transparent in its decision-making process and share, in writing and to the public, the legal analysis offered by the attorney who expressed concerns about liability about the differences between the language in Rule 2000 and in the 2200 Series Rules.

Finally, I would like to encourage the State Board pay close attention to this section from Amanda and Mark's response:

"The pursuit of consistency between these different rules should never come at the cost of substantively weakening or diluting proposed changes to the proposed EQS Manual that define discrimination, expressly prohibit it, and expand protections against it. That is what will come to pass, we fear, if the 2200 Rules language in the October 12th memorandum replaces its counterparts in the EQS Manual. Respectfully, the State Board must not let that happen."

Sincerely,

Paul

I support the language that the team has already introduced to the EQS. I have two daughters in Essex school district who will be school-aged in the next few years and I grew up in Montpelier Vermont, attending school without those guidelines.

There are many amendments in the EQS that will ensure that empathy, compassion, diversity is something they grow up understanding in their school environment, in combination with learning at home.

I request that you retain the strong anti-discrimination definition in the EQS. And that the State Board be transparent in its decision-making process and share the legal analysis offered by the attorney who expressed concerns about liability.

Four years of dedicated work have gone into crafting these standards for the benefit of our students. It should not be altered simply due to concerns about liability. Tell us more and empower the working group to address concerns, rather than rewriting work that has been thoughtfully crafted by parents and educators.

Thank you

--

Deirdre Yee

<http://about.me/deirdreyee>

To whom it may concern:

I feel strongly that whatever Standards are adopted in VT include language about ethnic groups that have been historically subject to persecution or genocide. Specifically and crucially, it is imperative that the curriculum addresses antisemitism, a form of bias and hatred that is unfortunately increasing in our country. This was the language that the Legislature included as section B of the definition and section B was eliminated.

Please feel free to contact me if you have any questions about this.

Michael Bettmann, MD
70 Three Mile Rd
Etna, NH 03750



STATE OF VERMONT
SENATE CHAMBER
115 STATE STREET
MONTPELIER, VT
05633-5201

To: Jennifer Samuelson, and Vermont Board of Education

From: The Windsor County Senate Delegation

Date: October 18, 2023

Re: Standards

We write with two concerns about provisions in the proposed Curriculum Quality Standards . First, we urge you to include a history of oppression and/or genocide in the list of criteria for groups warranting attention. Surely genocidal oppression, the threat of the extinction of a people, is at the top of the list of moral outrages with tragic consequences deserving special attention in the curriculum.

Unfortunately, oppression including genocide is a present, as well as historical, reality. Consider the recent appearance of swastikas in our state. In 2023, some may be tempted to minimize this as adolescent vandalism, to see antisemitism as the anachronistic domain of ignorant and irrelevant bigots. But, while the swastika is an attack on the decency of all Vermonters, it is an especially threatening insult to Jewish Vermonters, a threat of genocide. Today. Here.

We urge you, as well to be clear that Vermonters' public tax dollars should support only institutions that comply with state requirements, and that those requirements must include the equal rights of minority, disabled, and LGBTQ+ students.

Thank you for your service to our children. And thank you for considering these concerns.

State Senator Dick McCormack

State Senator Alison Clarkson

State Senator Rebecca White

Whom It May Concern,

I am writing to express my strong recommendation that the Vermont Agency of Education explicitly incorporate ethnic groups that have historically endured persecution or genocide into the new State Education Quality Standards. I also urge the inclusion of a specific focus on combating "antisemitism" within the curriculum. This updated educational framework must encompass the Jewish experience in the United States and across the globe.

In light of current events, maintaining silence regarding antisemitism and the Jewish experience within the United States can inadvertently contribute to the propagation of prejudice. Antisemitism is on the rise in the United States and statistically serves as the primary basis for religion-based hate crimes. By not educating Vermont's youth about the Jewish American heritage and history, we inadvertently fuel antisemitism, racism, and hatred. It is essential for students to gain insight into this history to comprehend the United States' relationship with its ethnic minority groups. Antisemitism is not an isolated concern, as it affects Vermont just as it does the rest of the nation. Recent instances such as the discovery of swastikas painted on buildings in my community in Norwich, VT, and the necessity for local synagogues to implement security measures like crash barriers, armed guards, and bulletproof glass in response to concerns, underscore the pressing nature of this issue.

The White House has issued the National Strategy to Counter Antisemitism, with its first pillar emphasizing the importance of raising awareness and understanding of antisemitism and its threat to America, along with fostering a deeper appreciation of Jewish American heritage. It begs the question: why would Vermont consciously opt to exclude Jewish American history from this curriculum?

Vermont is celebrated for its reputation as an inclusive, tolerant, and progressive state. I kindly request that the new curriculum adequately addresses the issue of antisemitism to ensure that Vermont continues to embody these values.

Sincerely,

Jonathan Rosenbloom
Norwich, Vermont

To whom it may concern:

It has come to my attention that The Vermont Agency of Education is looking to eliminate Jewish people from the definition of Ethnic groups as it implements the State Education Quality Standards. I am deeply upset and opposed to this move.

I am not a deeply religious person, but I am Jewish. Being Jewish is more than just about praying and observing religious rituals. It is an identity, which has both positive and negative implications in the world. I have experienced firsthand anti-semitism and witness it increasing in the world, even in the United States. Now is the time increase protections against hate like this, not decrease them.

I strongly urge you to speak to Jewish people and gain an understanding of how being Jewish IS an ethnicity and not solely a religion. Persecution and scapegoating of Jews has been far too prevalent in the world. I hope Vermont will lead the way in seeking to end that.

Sincerely,
Daniel Bradford
Ludlow, VT

Dear Jennifer Deck Samuelson and Members of the Vermont State Board of Education,

Attached is a letter from the Vermont Art Educators Association calling urgently for support and clarity in The Arts under the Education Quality Standards. We respectfully request your review and consideration for greater equity for our students.

Thank you,
Kim Desjardins

--

Kim Desjardins
Visual Artist and Art Educator
K-4 Bellows Free Academy, Fairfax, VT
President, Vermont Art Educators Association

Kimberley Desjardins

President, Vermont Art Educators Association

64 Fletcher Road

Fairfax, Vermont, 05454

kimannedesjardins@gmail.com

802-734-1704

10/15/23

Jennifer Deck Samuelson

Chair of the Vermont Board of Education

Manchester Center, VT 05255

Subject: Urgent Call for Support and Clarity in Arts under the Education Quality Standards

Dear Jennifer Deck Samuelson and Members of the Board of Education,

We are respectfully writing to you on behalf of the Vermont Art Educator Association to express our deep concerns regarding the recent addition of the word "art" under Section 2120.5 Curriculum Content, specifically in the context of global citizenship. We believe that this addition has the potential to significantly impact the future of arts education in Vermont schools.

Allow us to provide you with an overview of the current state of arts education in many Vermont schools. Under the existing language of the Education Quality Standards, arts educators, encompassing music, theater, dance, and visual arts, are subjected to teaching loads as determined by their respective school districts. In some instances, such as in the Champlain Valley School District, language has been introduced into contracts that support "teaching minutes," permitting arts educators to teach up to 34 classes a week. This staggering workload is unsustainable and has led to numerous open positions in the field of art education going unfilled across the state.

While Vermont proudly champions the arts, we must acknowledge that we do not afford arts educators the same considerations as their peers in other subjects. They are often burdened with excessive student numbers and classes, causing burnout and high turnover rates. We believe that it is imperative to address this issue and seek your support in bringing equity and clarity to arts education in our state.

Our primary concern with adding the arts to the global citizenship framework is the lack of clarity and potential adverse effects on arts education. Will arts educators be expected to incorporate

art history into an already demanding curriculum? Could this addition be used as a justification to further reduce arts positions, with the assumption that students can fulfill their arts requirements through global citizenship courses? These uncertainties demand your immediate attention and action.

The arts are not mere extracurricular activities; they are vital for the well-being and development of our students. We applaud the well-outlined requirements for physical education and health education, and we believe that the same commitment should be extended to the arts, which are equally essential for many students.

Therefore, we implore you not to merely add the word "arts" to global citizenship and consider the matter resolved. Instead, we urge you to seize this opportunity to demonstrate unwavering support for arts education in Vermont's public schools by explicitly outlining equitable arts education standards for all students.

Our proposed change is as follows:

Under Section 2120.5 Curriculum Content, we recommend that "the arts" be removed from global citizenship and placed under Section 2120.5f, which should be articulated as follows:

f) Artistic Expression (including visual, media, and performing arts):

- Provide students in grades K-8 with a minimum of 1 performing arts and 1 visual arts class per week for the entire school year.
- Provide students in grades 9-12 with a minimum of 1 performing arts and 1 visual arts class during their high school career.

Additionally, we propose an amendment to Section 2121.2 Staff, which currently states:

"Classes in grades K-3, when taken together, shall average fewer than 20 students per teacher. In grades 4-12, when taken together, classes shall average fewer than 25 students per teacher. The total class roll of a teacher shall not exceed 100 students, except where the specific nature of the teacher's assignment (such as in certain art, music, or physical education programs) is plainly adaptable to the teaching of greater numbers of students while meeting the educational goals of the program."

We recommend revising it to read:

"Classes in grades K-3, when taken together, shall average fewer than 20 students per teacher. In grades 4-12, when taken together, classes shall average fewer than 25 students per teacher. The total class roll of a teacher shall not exceed 100 students, except in cases where the specific nature of the teacher's assignment (such as in certain art, music, or physical education programs) requires. In these cases, the total number of teacher's classes will not exceed 30 classes a week at the elementary school level, and equivalent time at the middle and high school levels"

We firmly believe that these changes will help create more equitable opportunities for students in Vermont and ensure the long-term viability of successful arts programs in our schools.

In conclusion, we respectfully request your support in addressing the concerns raised by the Vermont Art Educator Association and implementing these changes. By doing so, you will not only demonstrate your commitment to the arts but also help foster a well-rounded and enriched educational experience for all students in our state.

We appreciate your time and attention to this matter and eagerly await your response and action on behalf of the future of arts education in Vermont.

Sincerely,

Kimberley Desjardins

President

Vermont Art Educator Association

Kimannedesjardins@gmail.com

802-734-1704

Cynthia Camber

Secretary, Vermont Art Educator Association

misshelmbreck@gmail.com

802-745-9556

Frances Willard

Co-secretary, Vermont Art Educator Association

frannie.willard@gmail.com

802-287-0404

Melissa Kristiansen

President-Elect, Vermont Art Educator Association

artinschools@comcast.net

802-779-3252

April Hallock

Treasurer-Elect, Vermont Art Educator Association

aprilpearlsimpson@gmail.com

802-486-0229

Ask State Board of Education members to follow the law and honor legislators' definition of Ethnic Group in Act 1, including its part B, so that Vermont students will also learn about *the people* -- values, customs, contributions, and ongoing struggles -- who lost lives to and endured genocide and persecution rather than just history stats and facts. (Note: this implies the

Jewish people but does not say Jews expressly.) If you or the people you ask to help, you can insert Jews as part of this historical fact.

To the Vermont State Board Of Education:

As an active Vermont Arts Educator working with high school students, I applaud your efforts to make our system more equitable and diverse. However, I feel that some of those proposed changes may actually make it harder for me to provide equitable arts education for my students.

Please consider revising the way the Curriculum Content section covers arts education. The Arts must have its own section which impacts students K-12. These should include : Visual Art, Theater, Music and Dance- 4 subject areas with minimum class requirements. This is very similar to Physical Education and Library. While the Arts most certainly relate intersectionality yo many cultural studies, the Art are also immeasurably valuable in their OWN right.

Please also protect teachers and the arts content by addresibg maximum class loads in the arts. This would vary for discipline and developmental level, k-8 and 9-12. In addition, mandating that schools with more than 300 student have a full time Arts educator would help address equity and provide quality learning for all.

Sincerely,

Emily Mitchell
VT Art Educator
CVU

Vermont Board of Education:

Please consider the following suggestions with your update to the Education Quality Standards.

- a.
- b. The integrated field review process should include site visits of all schools within a Supervisory Union / School District - not just
- c. the Supervisory Union office. The Agency of Education should not be allowed to make a determination that a school complies with EQS unless there has been an integrated field review that included a site visit by an external team to the school within the prior
- d. 5 years for which the determination is being made for.
- e.

- b.
- c. Require schools to conduct an annual survey of parents and guardians, using a standard format and method set by the Agency of Education,
- d. to measure parent / guardian assessment of the quality of instruction, diversity of educational opportunities, school safety, and support for students from historically marginalized groups. Survey results should be submitted to the Agency of Education (and
- e. IFR team) and made available to the public. Survey results should be used by the Agency as input to consider when determining whether a school meets EQS and whether a school is providing educational opportunities substantially equal to those provided in other
- f. schools.
- g.

- c.
- d. Establish a minimum number of full time equivalent professional staff required to be employed by a school. A suggested number to
- e. consider would be 5 FTE. With less than 5 staff, a school is likely to be too small to provide sufficient diversity of experiences for students to receive a quality education that is substantially equal to their peers in other schools. In addition to quality,
- f. there are also issues with capacity and safety with too few adults staffed in a building.
- g.

- d.
- e. Create a process for school board members, staff, students, parents, guardians, and other members of the public to request the Agency
- f. of Education to conduct a review of a school's compliance with EQS. If a request is based on credible allegations of noncompliance of EQS rules, the Agency would be required to initiate a compliance review and issue public findings that the Agency would rely
- g. on when making a determination of a school's compliance with EQS and whether a school is providing educational opportunities substantially equal to those provided in other schools.
- h.

Regards,
Robert Smith (Taxpayer and Parent)

Public Comment

To: State Board of Education
Submitted by: Heather Bouchey, Interim Secretary, AOE
Subject: Proposed Rule 2000
Date: October 15, 2023

The Agency of Education recognizes that the members of the State Board and in particular the members of the Board's Education Quality Standards Rule Update Committee have devoted significant time and resources to the development of Proposed Rule 2000. Thank you for your ongoing efforts to update this important series of education regulations and to, as the proposed rules state, "ensure that all Vermont students are afforded educational opportunities that are substantially equal in quality and are equitable, antiracist, culturally responsive, anti-discriminatory, and inclusive."

The Agency submits the following comment for the Board's consideration for the final draft of the proposed rule.

The definitions are listed in Proposed Rule 2114 and include many new definitions. In defining "discrimination," the Agency is concerned that the Board would be creating unintended negative consequences. In the proposed rule, "discrimination" means:

"...any distinction, exclusion, classification, restriction or preference based on any ground, such as race, ethnicity, skin color, sex, sexual orientation, gender identification, language, religion, political or other opinion, disability, national, social or geographic origin, citizenship or immigration status, income or property, birth or other status, which has the purpose or effect of denying or impairing the recognition, enjoyment or exercise of fundamental rights and freedoms in the political, economic, social, cultural, civil or any other field. Discrimination is practiced by individuals and groups, and it is expressed systemically through the structures, laws, practices, and policies of public and private institutions, employers, and organizations."

The proposed rule explicitly states in Proposed Rule 2110, Statement of Purpose, that "this manual adopts a definition of Discrimination that is broader than its legal definition. Nothing herein shall create a private right of action." However, nowhere is it clear whether the definition of "discrimination" will apply in other State Board of Education Rules, or in other education contexts. This is problematic.

The proposed definition of discrimination is markedly different from any definition of the same term in state or federal civil rights law. When and if it is applied, even mistakenly, in other contexts, problems will ensue. A perhaps overly simplistic example illustrates just one potential



consequence that is contrary to the clearly stated intent of the proposed rule. Because the proposed definition includes “political or other opinion,” as a category that no activity may have the “purpose of effect” of “impairing “enjoyment” or of “freedoms in the political, economic, social, cultural, civil or any other field,” the definition could be cited to prohibit a school from disciplining a student who has harassed a classmate. For example, if the disciplined student expressed a “political or other opinion” in the harassment, parents may argue that the school is prohibited from taking away the student’s recess as a consequence. Recess would fall within the meaning of “freedoms in . . . any other field” along with any number of other activities at school.

The Agency urges the Board to consider whether the proposed definition of discrimination is necessary to accomplish the purpose of the rule, and if so, whether it is prudent to formalize a definition of a term that is so different from other legal definitions of the same word. At minimum, it would be helpful to expressly and clearly limit application of the definition to only certain rules within the Education Quality Standards.

To Whom it May Concern,

We just found out about this deadline-sensitive matter and hope that you will take our feedback into consideration.

We are writing to **urge the Vermont Agency of Education to explicitly include ethnic groups “that have been historically subject to persecution or genocide” and to specify that the curriculum address “antisemitism” in its new State Education Quality Standards.** This new Curriculum **must include the Jewish experience** in the United States and around the world.

In light of current events, being silent about antisemitism and the Jewish experience in the United States is akin to promoting prejudice.

Antisemitism is a rising problem in the US and is statistically the basis of the majority of religion-based hate crimes. **Vermont children not learning about who Jewish Americans are and our history here only feeds into antisemitism, racism, and hate. Students need to learn about this history to understand America and its relationship to ethnic minorities.** Antisemitism is an issue in Vermont just as much as it is around the country. Swastikas were found painted on the side of buildings in my community, Norwich, VT. Synagogues in VT have had to construct crash barriers, hire armed guards, and install bullet-proof glass in their buildings in response to concerns.

The White House has issued the National Strategy to Counter Antisemitism. Pillar 1 of that strategy reads, "Increase awareness and understanding of antisemitism, including its threat to America, and broaden appreciation of Jewish American heritage." Why would Vermont choose to deliberately remove Jews from this curriculum?

Vermont is known for being a loving, tolerant and liberal state. Please ensure that the new curriculum addresses antisemitism so that it stays that way.

Sincerely,
The Rojansky Family
Norwich, VT

To the Vermont State Board Of Education:

As an active Vermont Arts Educator working with students for close to 40 years, I applaud your efforts to make our system more equitable and diverse through changes in the Manual of Rules and Practices. Some of those proposed changes may inadvertently make it harder for me to provide equitable arts education for my students and has prompted me to write

Please consider revising the way the Curriculum Content section covers arts education, and expanding it to its own section that impacts students K-12 in 4 subject areas with minimum class requirements similar to Physical Education and Library. Please also address maximum class loads in the arts that vary for discipline and developmental level. Mandating that schools with 300 or more students should have full-time Arts Instructors would help this.

Sincerely,
Rebecca Carleton
Vermont Art Educator
VAEA/NAEA Member

To: Chair Jennifer Samuelson and members of the VT State Board of Education

From: Amanda Garces and Mark Hage

Date: Oct 15, 2023

Re: Public comment: Rule 2000 – State Board Memo, Alignment of Select Language in Both Sets of Proposed Rules 10/12/2023

Dear Chair Samuelson and members of the State Board:

This is a formal response to your memorandum of October 12 (“*Alignment of Select Language in Both Sets of Proposed Rules*”) on behalf of the State Board of Education. Our concerns, questions, and recommendations are informed by nearly four years of research, dialogue, and deliberation as co-chairs of the Act 1 Working Group and by extensive interactions with many Vermonters who followed and commented on our work products and processes.

At the outset, we must state emphatically that the Working Group was unanimous in its endorsement of the “Statement of Purpose” and the definition of “discrimination” presently found in the revised EQS Manual. We oppose any substitution of the proposed EQS language in your memorandum with that in the same memorandum from the proposed 2200 Rules. We also urge you **to extend the public comment period for the rulemaking process** to accord members of the Act 1 Working Group and those who endorse the EQS Manual in its current iteration an opportunity to testify and submit written comments about the language substitutions you are weighing with respect to the manual and the 2200 Rules.

In your memorandum, Ms. Samuelson, you write:

When the Board approved the revised language in the 2200 Series Rules on August 18, 2023, it was clear that its commitment to adopting the same substantive language in both sets of rules for Act 1 related amendments had not changed and that it intended to refer to the revised language in the 2200 Series Rules when it considered final updates to the EQS Rules.

Since the public comment periods for these sets of rules [EQS Manual and 2200 Rules] will not overlap as the Board had hoped, I feel it is important to expressly point out the exact language revisions that were unanimously approved by the Board in the 2200 Series Rules. In keeping with the Board’s stated goal to promote consistency between the rules, the counterparts identified below will be revisited by the Board before it proposes the final EQS Rules.

The pursuit of consistency between these different rules should never come at the cost of substantively weakening or diluting proposed changes to the proposed EQS Manual that define discrimination, expressly prohibit it, and expand protections against it. That is what will come to pass, we fear, if the 2200 Rules language in the October 12th memorandum replaces its counterparts in the EQS Manual. Respectfully, the State Board must not let that happen.

Proposed Statement of Purpose: 2200 Rules

The Board believes that any distinction, exclusion, classification, restriction or preference based on any ground, such as race, ethnicity, skin color, sex, sexual orientation, gender identification, language, religion, political or other opinion, disability, national, social or geographic origin, citizenship or immigration status, income or property, birth or other status, which has the purpose or effect of denying or impairing the

recognition, enjoyment, or exercise of fundamental rights and freedoms in the political, economic, social, cultural, civil or any other field should be carefully considered and rejected if it results in unlawful discrimination or interferes with the delivery of effective, available, and equitable educational opportunities. The Board recognizes that discrimination is practiced by individuals and groups, and it is expressed systemically through the structures, laws, practices, and policies of public and private institutions, employers, and organizations.

1. This language opens with a declaration of what the **State Board** “believes” rather than with an unequivocal statement that directs independent/non-public schools to anchor their policies and practices to a set of anti-discriminatory values. Values inspire and shape standards of behavior and action. Stating what the State Board “believes,” however well intended, misses the point. What is needed is the exercise of your rulemaking authority to clearly define discrimination and the forms it takes, and to stipulate that public and independent/non-public schools must identify and combat discriminatory behavior and policies so that all Vermont students can achieve equal access to a quality education.
2. Building off this first point, the proposed 2200 Rules language, unlike that in the proposed EQS Manual, does not include the word “**prohibit.**” This is a glaring and fundamental omission, and it runs counter to anti-discrimination policies adopted by most public and private institutions. We suggest you re-read the extensive supplemental report we produced in 2022 at the State Board’s request. It contains commentary and links to research that influenced and gave shape to our engagement with the question of what “discrimination” means and how it should be understood by our public schools and the local communities they serve.
3. The proposed EQS Manual’s Statement of Purpose also identifies the “student” as the primary focus of anti-discrimination policies and actions. **There is no mention of “student” or “students” in the highlighted section above in the proposed 2200 Rules.**
4. A public school’s mission is not to “interfere” with discrimination or to complacently accept discrimination that state and federal law in their present state cannot be deployed to challenge and stop. Our public schools must do their utmost to prohibit discrimination in all its manifestations, and swiftly rectify its deleterious consequences, which are often traumatic for victims and destructive of social and educational relationships. We must be committed to these objectives to ensure that no child is denied a high-quality education, personal security, and dignity. This is why we revised the proposed EQS Manual as we did.

As you know, the Act 1 Working Group added language to the proposed EQS Manual that increased the categories of anti-discrimination protection, building on the foundations of state and federal law. We offered this explanation:

With this language, the Working Group asserts the need to broaden the categories of protection against discrimination in both public and approved independent schools beyond what is stipulated in Section 2113. These new categories, to be clear, reflect the personal, educational, and professional experiences of our members, their children and families, and their communities, and they are plainly unacceptable barriers to the attainment of an equitable, antiracist, anti-discriminatory, culturally

responsive and inclusive education. “Religion” was added because “creed” in Section 2113 is a term many do not understand in this context as being inclusive of and protecting religious practices and beliefs or religious minorities. “Religion,” on the other hand, is a term most people do understand.

It must be restated as well that the proposed EQS Manual’s Statement of Purpose explicitly denotes that there is no “private right of action.” This is a longstanding provision in the manual that shields school districts from incurring legal liability arising from the manual’s rules, and this covers the broader definition of discrimination.

5. The list of anti-discrimination categories in the proposed 2200 Rules largely mirrors that in the proposed EQS Manual. But the former’s protocol on when it is permissible or necessary to act against discrimination is narrowly constricted by virtue of its deference to the parameters of anti-discrimination law at the state and federal level. We also find key terminology troublingly vague.

The rules stipulates that the evidence and effects of discrimination on the multiple grounds cited “should be carefully considered and rejected if it results in unlawful discrimination or interferes with the delivery of effective, available, and equitable educational opportunities.” There is no definition of “carefully considered,” “rejected” or “interferes” in the proposed 2200 Rules. Since the word “prohibit” is not present, it is reasonable to infer that “reject” and “interfere” have a different meaning or purpose than “prohibit” and, therefore, may represent by design a lower bar of accountability. *Why did you resort to these terms, when you could have simply added an unambiguous prohibition on discrimination?*

We want to expand on our objection to the concept of interference in the proposed 2200 Rules. The Act 1 Working Group, as previously noted, expanded the scope of anti-discrimination protections in the proposed EQS Manual because of well-documented forms of discrimination that afflict our students today and, regrettably, are not expressly prohibited by law. Students from low-income families, for example, are not a protected class, but familial poverty can and does generate discrimination. The same is true for children who face discrimination because of their immigration status or because their first language is not English. But the State Board knows this, which is why, we presume, you inserted “...or interferes with the delivery of effective, available, and equitable educational opportunities.” This new language, however, will not serve as a potent second firewall against discrimination where statutory protections do not yet exist.

The 13th Amendment to the U.S. Constitution and historic civil rights legislation in the 1960s and beyond were not enacted to “interfere” with slavery, racism, and other forms of discrimination. But to end their immoral, exploitative, degrading, violent, and socially pernicious consequences. Meriam-Webster defines “interfere” this way: “to slow or stop (something); to make (something) slower or more difficult.” So, how should we understand “interfere” in the context of an assessment of the presence and effects of discrimination on the delivery of educational opportunities in independent/non-public schools? In other words, what are you requiring precisely?

Turning again to Meriam-Webster’s definition of “interfere,” are you saying independent/non-public schools must undertake anti-discrimination interventions if certain behaviors, policies, or actions “stop” the delivery of educational opportunities...or if they “slow” the delivery of them...or if they just

make that delivery “**more difficult**”? Additionally, placing the accent here on the “*delivery of effective, available, and equitable educational opportunities* as a standard for fighting discrimination, rather than on how discrimination affects (directly and indirectly) the wellbeing and aspirations of **students**, is misguided. It’s not hard to imagine scenarios where a particular lesson plan or educational program is **delivered** effectively, made **available** to all students, and is comprised of constituent parts and objectives that are **equitable**. And yet discrimination can still be present in multiple ways and harm **students** (or potentially local families and school staff).

Every child and their family should know and trust that their public schools are sincerely and passionately committed to protecting them from discrimination. This requires, at a minimum, a categorical standard of prohibition against discrimination. The absence of such a prohibition in the 2200 Rules Statement of Purpose is a profound flaw and will send the wrong message to Vermonters and their children. If you elect to stay with it for the proposed 2200 Rules, please do not endorse it for the EQS Manual.

Definition of Discrimination: 2200 Rules

“Discrimination” is intended to describe any exclusion, restriction, or preference based on any protected class consistent with state and federal law that has the purpose or effect of denying or impairing the recognition, enjoyment, or exercise of an individual’s fundamental rights. Discrimination is practiced by individuals and groups, and it is expressed systemically through the structures, laws, practices, and policies of public and private institutions, employers, and organizations.

Definition of Discrimination: EQS Manual

“Discrimination” means any distinction, exclusion, classification, restriction or preference based on any ground, such as race, ethnicity, skin color, sex, sexual orientation, gender identification, language, religion, political or other opinion, disability, national, social or geographic origin, citizenship or immigration status, income or property, birth or other status, which has the purpose or effect of denying or impairing the recognition, enjoyment or exercise of fundamental rights and freedoms in the political, economic, social, cultural, civil or any other field. Discrimination is practiced by individuals and groups, and it is expressed systemically through the structures, laws, practices, and policies of public and private institutions, employers, and organizations.

1. To state the obvious, “discrimination” has a meaning. To remove the verb “mean” in the proposed 2200 Rules and replace it with “intended to describe” strips the definition of the concreteness, emphasis, and simplicity that the verb “mean” conveys. The verb “mean” is in the proposed EQS Manual definition and we want it to remain there.
2. The proposed 2200 Rules definition of “discrimination” is, again, too narrowly construed, grounded as it is to “protected classes” in state and federal law. As stated earlier, we owe it to Vermont’s students in our public schools to protect them from discriminatory harm in all circumstances, even when state and federal law do not provide us with the tools to conduct anti-discrimination interventions outside the parameters of “protected classes.” In time, in the ongoing

struggle to overcome discrimination as defined in the proposed EQS Manual, we are confident every public and private institution will follow the lead of our public schools and their local communities. Thus, the language above in the proposed **EQS Manual**, in red, beginning on line two through most of line 4, delineates categories of discrimination that must be understood, confronted, and stopped by our public schools, local communities, and people of conscience. This should be communicated in no uncertain terms in the proposed EQS Manual.

3. The language in red in the proposed **EQS Manual**, including that on lines 5-6, which is absent in the proposed **2200 Rules** definition of “discrimination,” is found in the proposed **2200 Rules** “Statement of Purpose,” together with a reference to discrimination. Why is it acceptable in the proposed 2200 Rules Statement of Purpose but not in its definition of “discrimination”?
4. We do not understand why “caste” is not in the proposed **EQS Manual’s** definition of “discrimination,” since it is in the manual’s “Statement of Purpose.” We assume an oversight of some kind, perhaps on our part, explains this. We ask, please, that you add it to the proposed **EQS Manual’s** definition.

Candidly, the omission of “caste” from the proposed **2200 Rules** is a mistake. Caste discrimination is not confined to Southeast Asia. It is a serious problem in the United States and worldwide, as we noted in a report to the legislature and in another to the State Board, Cal State Universities, the largest public university system in the country (23 campuses), added caste to its anti-discrimination policy in 2022, following the lead of the city of Seattle. Vermont’s public and independent/non-public schools should add their name to this socially responsible and educationally constructive initiative.

Conclusion

In closing, we implore the State Board not to alter the wording of “Statement of Purpose” or the definition of “discrimination” in the proposed EQS Manual. We reiterate, too, the importance of extending your rulemaking’s public comment period so that the matters delineated in your memorandum of October 12 and in this letter can be addressed in a fair and transparent manner by those who invested so much time, hope, reflection, and faith in the revision process for the proposed EQS Manual and educational projects related to it.

Thank you for receiving and giving due consideration to our commentary and recommendations.

Sincerely,

Amanda Garces, former Chairperson, Act 1 Working Group (Amanda.Garces@vermont.gov)

Mark Hage, former Co-Chairperson, Act 1 Working Group (mhage@vtnea.org)

To Whom it May Concern,

I'm writing to **urge the Vermont Agency of Education to explicitly include ethnic groups “that have been historically subject to persecution or genocide” and to specify that the curriculum address “antisemitism” in its new State Education Quality Standards.** This new Curriculum **must include the Jewish experience** in the United States and around the world.

In light of current events, being silent about antisemitism and the Jewish experience in the United States is akin to promoting prejudice.

Antisemitism is a rising problem in the US and is statistically the basis of the majority of religion-based hate crimes. **Vermont children not learning about who Jewish Americans are and our history here only feeds into antisemitism, racism, and hate. Students need to learn about this history to understand America and its relationship to ethnic minorities.** Antisemitism is an issue in Vermont just as much as it is around the country. Swastikas were found painted on the side of buildings in my community, Norwich, VT. Synagogues in VT have had to construct crash barriers, hire armed guards, and install bullet-proof glass in their buildings in response to concerns.

The White House has issued the National Strategy to Counter Antisemitism. Pillar 1 of that strategy reads, "Increase awareness and understanding of antisemitism, including its threat to America, and broaden appreciation of Jewish American heritage." Why would Vermont choose to deliberately remove Jews from this curriculum?

Vermont is known for being a loving, tolerant and liberal state. Please ensure that the new curriculum addresses antisemitism so that it stays that way.

Sincerely,
Nir Jacoby

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Sincerely,

Roseanne Kramer
M. Ed C.A.G.S

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Carolyn Weiss

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Sincerely,
Brooke Blicher
Norwich, VT

Brooke Blicher, DMD

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Sincerely,
Gered Dunne

From:

Kathy Shapiro, P.A., M.P.H.

141 Upper Sunnybrook Rd.

Middlesex, VT 05602

802-249-3782

June 29, 2022

To:

The State Board of Education EQS Committee

Re: Recommendations by Act 1 Working Group, Definitions Section

Greetings:

Thank you for the opportunity to comment again on this critical, foundational section of the EQS recommendations on which the rest of the document relies. I would also like to express my thanks to the Act 1 Advisory Group and the SBE EQS Committee for its tireless work to provide Vermont students with the highest standards that uphold democratic principles and correct some of the omissions that have left the histories of so many ethnic and racial groups out of our curricula.

I fully support the broad and inclusive language as it appears now in Section 2114, which clearly defines words like 'discrimination,' 'ethnicity' and 'racism' without identifying or singling out any specific groups. This logic situates the work to be done within the broader struggle against racism and oppression, which are both embedded in white supremacy and the machinery that has been, and is, used to target innumerable groups. And innumerable is important because sadly there are too many to name, and some will always be left out. This is why the definitions need to be broad.

I have been aware of the work of EQS group since 2019 when I testified during the legislative process in response to certain groups, some from outside our state, who were involved in attempts to insert language into these definitions that singled out antisemitism as a unique form of discrimination and racism to be named and described. Most disturbing to me was the suggestion that a particular definition of anti-Semitism should be included that purposely conflates criticism of the State of Israel with anti-Semitism. This definition, created as a draft for discussion by International Holocaust Remembrance Association (IHRA), was never meant to be adopted by states as a definition, and its author has himself publicly denounced it. Its use has created a climate of fear, and suppression of speech, specifically, the legitimate discussion of human rights abuses and crimes committed by the State of Israel, as well as the U.S. Yet where else should difficult discussions and debate about such issues be encouraged but within places of learning?

It is important to also note that the groups advocating for a singular place for antisemitism in this document do not speak for all Vermont Jews; while most Jews here and in the U.S. are like myself, secular, much of the testimony from JCVT is from rabbis. Likewise, The AntiDefamation League is a regional and national organization, not based in Vermont, with strong ties to the State of Israel - it hardly speaks for all of us.

Tactics of division and fear are the tactics of white supremacy - they divide us and make us

vulnerable. A special lens on antisemitism alone ignores threats to other marginalized groups, most of whom are non white, and erases their unique experiences. We must be united to overcome all forms of racism and discrimination and we must act on the knowledge that oppression is intersectional, and justice indivisible.

Thank you again for this opportunity,
Kathy Shapiro

To whom it may concern,

My name is Nicole Johnson Gottsegen and I am a resident of Hartland, Vermont. I am a school-based speech-language pathologist and have worked in Vermont public schools for 20 years with students of all ages, from preschool through high school. I am a white woman who identifies as a Protestant, main line Christian, and I am married to a Jew. My family includes people who are lesbian, people who are trans, people whose ancestors came to the United States a few generations ago, or many generations ago, or who are new immigrants.

Though I support the goals of the Vermont Legislature and of the Rule Series 2000 to make sure that our students, our children, are provided with curricula that are anti racist, culturally responsive and inclusive, equitable, and anti discriminatory, it is vital that the Rule Series 2000 explicitly address antisemitism as called for by the Vermont legislature. The legislature explicitly included in section B of the definition of ethnic groups those “that have been historically subject to persecution or genocide”. In leaving out this language, I believe the goal of those drafting the rules has been to make them as broad and fully inclusive as possible. I do not think that anyone has intended to exclude Jews or the Jewish experience. My fear is that, by leaving language about genocide and antisemitism out of the rules, we inadvertently suggest that antisemitism is less damaging, less a concern than other forms of discrimination, and fail to teach a history that is vital to the understanding of the ultimate costs of discrimination and exclusion.

Here in Vermont it is easy to think antisemitism doesn't exist, until you talk with young people who have experienced it in the halls of their high school or on the bus, or until you have truly paid attention to the endless antisemitic tropes used almost daily in our language about Jews and money or Jews and power. These often appear to be accepted parts of our nation's, and even our state's political speech. When I sing and pray with the congregation in a Christian church here in Woodstock, Vermont, if we hear a car alarm or other loud, sudden sound outside, it barely registers. When I attend synagogue in Woodstock, if there is a loud noise outside, everyone notices. During important holidays, our synagogue always has a police officer on the grounds. No one feels the need of a police presence at my church. At the synagogue, the services begin with the usual welcomes, but also with directions about what to do should there be an emergency. During one service, a car alarm went off, and everything stopped, everyone looked nervously around, and certain designated members of the congregation went to look and to check in with the police officer on duty. Fortunately, there was nothing wrong, no one was attacking us, but a quick look at the rising rates of antisemitic violence across the country helps explain the fear.

Jews have not been the only victims of genocide. Too many human stories include histories of genocide. But within the lifetime of my grandparents, within the lifetime of my husband's parents, Nazi Germany systematically killed 6 million Jews. It did not matter if they were religious or not, if they were only one quarter Jewish, if they were married to a Christian, if they were fully assimilated into the dominant culture, if they were rich or poor, if they were German, Dutch, French, Italian, or any other nationality. The justification for this lay in centuries of antisemitism and persecution. And though other nations, including the United States, knew what was being done, they did not help, again, at least in large part, because of antisemitism.

This is not ancient history—I have heard Holocaust survivors speak, I know people who lost family members. The existence of genocide, especially that perpetrated in the Holocaust, is the ultimate reason that the work of equity, anti discrimination, and inclusion is so important. Without directly

teaching the history of antisemitism and working to stop it, we will not truly achieve the goals of the Rule Series 2000.

Respectfully submitted,
Nicole Johnson Gottsegen

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Sincerely,

Joslyn E. Meier, MPH, MIA
Norwich, Vermont



Vermont
Superintendents
Association

Date: October 15, 2023

To: Vermont State Board of Education

From: Vermont Superintendents Association (VSA);

Chelsea Myers, Associate Executive Director

Re: Series 2000 -- Education Quality Standards

The Vermont Superintendents Association (VSA) writes this memo to support achieving more inclusive and culturally responsive standards, policies, and practices for Vermont's school districts. VSA was a committed thought partner in the Act 1 Working Group and seeks to ensure that all of the necessary support structures are in place for school administrators to implement the changes reflected in the Education Quality Standards with fidelity.

In an earlier feedback collection regarding the changes to the Education Quality Standards, one superintendent said, "The changes are very strong in terms of supporting the direction we want schools to take toward becoming anti-racist and socially, culturally, and linguistically responsive." While another added, "It is inspiring, exciting and somewhat daunting. I would only add that, from a practical lens, we should start thinking ahead about ensuring the most effective technical assistance is provided to support us and our systems in implementation." To that end, VSA would like to provide three feedback points at the conclusion of this public comment period.

1. Superintendents are eager to have the work that they have embarked on at the local level supported by foundational state policy, guidance, and rules. At its core, this work is daunting for school administrators and will require a tremendous amount of coordinated support from state leaders and local and national experts, as well as fiscal resources. It is important to note to the State Board and to legislative leaders that there are a number of initiatives and unfunded mandates that educators are contending with at this time.
2. Approved independent schools, in their role as entities delivering publicly-funded education to students with a district of residence that does not operate a public school, should be required to abide by the same standards as public schools.
3. In recognition of the work of the Census-Based Funding Advisory Group under Act 173 of 2018, the State Board should align language in the Education Quality Standards regarding multi-tiered systems of support with language from Act 173 with the aim to create standards for more consistent implementation across the state.

Thank you for your commitment to this important work.

Dear Members of the Vermont State Board of Education,

Thank you for your leadership on the State Board of Education and your commitment to Vermont students.

Attached, please find a letter of formal comment on proposed Rule 2000 amendments. I send this today on behalf of my co-signatories.

Thank you,

Colin Igoe

--

Colin Igoe
Head of School
Long Trail School
Vermont's First **IB** World School
cigoe@longtrailsschool.org
802-867-5717 x101

Vermont State Board of Education
1 National Life Drive, Davis 5
Montpelier, VT 05620-2501

October 15, 2023

RE: Comment on Proposed Rule 2000 (EQS) Amendments

Dear Members:

Please accept this letter as our formal comment on the Rule 2000 Education Quality Standards (EQS) rulemaking.

As consistently represented over the past year, we support the inclusion of ethnic and social equity studies as part of the standards that govern Vermont's Approved Independent Schools, specifically Rule 2200. We are disappointed that some individuals and organizations are attempting to conflate these important updates with an effort to apply unrelated aspects of EQS to independent schools.

We do not support the unilateral application of EQS to independent schools. Applying the EQS to independent schools would be a major policy change that goes well beyond the limits of the State Board of Education's statutory authority. The current statutory and regulatory framework reflects important and fundamental differences in governance structures between our public education system and the independent schools that serve students from public school districts that do not operate their own schools.

The historic academies have never been public schools, as some individuals have falsely claimed. Independent schools are governed by self-perpetuating boards of trustees, with a head of school responsible to the trustees. **Ultimately, we as leaders, along with our trustees, are accountable to the parents who choose our schools to educate their children.**

Our governance structures are flexible, allowing us to respond to student needs quickly and innovatively. Our governance model, with its focus on long-term sustainability, helps attract the private contributions we need to fund ongoing capital investment (since we are ineligible for state capital construction aid and do not have tax authority). Our town tuition program has served Vermont students and families extremely well, as evidenced by the continued commitment of many districts to tuition to independent schools. Our sending school districts retain the power to construct and operate their own public school and end tuitioning.

Recognizing the difference in governance, there would be practical problems, as well as substantive policy implications to consider in applying the EQS unilaterally to independent schools. Just a few examples include:

- **EQS Rule 2121.2** requires that “Each school shall employ instructional and administrative staff members who possess the knowledge and skills to implement the standards in alignment with professional educator standards established by the Vermont Standards Board for Professional Educators.” Rule Series 2200, consistent with statute, requires that independent schools employ educators with appropriate qualifications, but does not require a specific license. Changing the standard would have serious policy implications, particularly given the significant workforce challenges we have in the education field. If this requirement came into force, it would only increase the competition for licensed educators, and put increased pressure on independent AND public schools. In addition, we do not believe licensure is the best measure of teacher quality and preparedness. A Ph.D. level college professor or professional without a teacher license is sufficiently able to teach secondary education, for example. So is an award-winning chef able to teach in a culinary program. Underlying substantive and professional qualifications along with robust professional development, peer and leadership support, and evaluation are arguably more critical, albeit resource and time consuming. We consider it time and resources well allocated.

- **EQS Rule 2120.6** requires that the supervisory union “ensure that each school implements the supervisory union's written and delivered curriculum”. The practical problem is that this makes the superintendent responsible for developing curricula for all independent schools that it sends students to - what happens when students are attending an independent school from multiple supervisory unions that might have conflicting curriculum standards? Setting aside the practical issues, this represents a major policy shift, as it gives the superintendent control over an independent school's curriculum.

- **EQS Rule 2121.1** requires that the superintendent “supervise a licensed principal who shall be responsible for the day-to-day leadership of the school”. As with curriculum, this has major policy implications, and puts the superintendent in the position of supervising and directing the work of a head of school who is hired, supervised, and fired by an independent board.

It is worth noting that there are requirements of the independent school approval process governed under Rule Series 2200 that do not apply to public schools. One significant difference is that, unlike public schools, all approved independent schools are subject to public scrutiny, review, and approval by the State Board of Education, at the recommendation of the Secretary of Education, at least every five years. Just within the past year, the State Board has declined to approve schools that were unable to meet these approval standards and it occasionally places conditions on the approval of independent schools in cases where it thinks additional oversight is required. Approval status can be suspended, as well as terminated.

Moreover, the rules that apply to independent schools (2223.9) create a complaint process wherein aggrieved persons can file a complaint directly with the Agency of Education, which then provides avenue for an independent investigation of the complaint. Public schools are not held to that standard. The proposed EQS rules (2121.1 and 2126.1), require public schools to document complaints they receive and provide those documented complaints and responses annually to the Agency of Education.

Unlike the public hearing style review of an independent school's approval, there is no similar, regular public forum for review of a public school's compliance with the rules at a state level.

In his October 3, 2023 comment to the State Board of Education, the president of the VSBA, Neil Odell, advocates for a "...single set of standards that would apply to all of Vermont's publicly funded students." Ironically, while Mr. Odell appears to dismiss the unique history and governance structures of Vermont's independent schools, he ignores the glaring reality of the interstate districts that serve many Vermont students. As the vice-chair of the Dresden interstate school district, Mr. Odell must know that his high school, which serves many Vermont students, will continue to be exempt from EQS in its entirety.

Mr. Odell further states that "All of Vermont's publicly funded students deserve the same equitable, anti-racist, culturally responsive, anti-discriminatory and inclusive (sic) education experience." We agree, which is why we continue to support the State Board's proposed application of Act 1 updates to Rule Series 2200, which are the appropriate place to address changes for independent school approval standards.

It is an unfortunate irony, however, that Mr. Odell's own school district, one of the most privileged in the nation, will remain beyond the reach of Act 1, even as Vermont independent schools are already embracing the principles of Act 1. Additionally, the Dresden school district retains (last updated April 2023) a restrictive admissions policy for non-resident students – one that would not meet the standards required of Vermont approved independent schools accepting public tuition.

The invocation of the phrase "separate but equal" by the VSBA and their "Alliance" in this important dialog is offensive and inflammatory, and oversimplifies the complexity of our education system, as so vividly illustrated by the status of Mr. Odell's own school district. Our collective and positive energy would be better and more productively directed toward addressing the significant needs of students in the areas of literacy, numeracy, homelessness food insecurity, infrastructure, and mental health, as well as promoting anti-racist, inclusive and welcoming environments. That is where our attention lies as school leaders, and we encourage members of the State Board of Education to visit our schools and see first-hand the critical work we are doing in these and other areas to support students.

In conclusion, we support the application of standards for ethnic and social equity studies to approved independent schools, and we ask that this be addressed in the appropriate rules (Rule Series 2200). An entirely different governance paradigm (e.g., school boards, supervisory unions, and superintendents responsible for day-to-day management) permeates through the specific dictates of the EQS rules, making them difficult and unnecessary to interpret and apply to the independent school environment.

Thank you for your consideration and your dedication to Vermont students.

Sincerely,

Brian Bloomfield
Lyndon Institute, Lyndon

Sharon Howell
St. Johnsbury Academy, St. Johnsbury

Colin Igoe
Long Trail School, Dorset

Tamara Mount
Hilltop Montessori School, Brattleboro

Tim Newbold
Village School of North Bennington, Bennington

Karen O'Neill Thomson
Red Fox Community School, Manchester

Margaret Schlachter
Mountain School at Winhall, Winhall

Dan Skoglund
Maple Street School, Manchester

CJ Spirito
Rockpoint School, Burlington

Roy Starling
The Riverside School, Lyndonville

Mark Tashjian
Burr & Burton Academy, Manchester

Carson Thurber
Stratton Mountain School, Stratton

Jennifer Zaccara
Vermont Academy, Saxtons River

Dear Jennifer Deck Samuelson and Members of the Vermont State Board of Education,

Attached is a letter from the Vermont Art Educators Association calling urgently for support and clarity in The Arts under the Education Quality Standards. We respectfully request your review and consideration for greater equity for our students.

Thank you,
Kim Desjardins

--

Kim Desjardins
Visual Artist and Art Educator
K-4 Bellows Free Academy, Fairfax, VT
President, Vermont Art Educators Association

Dear Board:

This is my twentieth year teaching art in Vermont, the first eighteen at the high school level and last year and this teaching 3rd-8th grade. I was a Vermont Teacher of the Year finalist in 2023 and had the pleasure of meeting you (via the screen) and presenting to you about the importance of choice in education. I have been reviewing the most recent changes you are proposing to the EQS and have a couple of points of concern to raise during the public comment period. I am writing on my own behalf, and not representing my school or district.

Having experienced teaching students at many grade level bands, I can tell you that the arts are truly essential to opening up kids to new possibilities and seeing themselves as creative contributors to the 21st century. Arts provide opportunities for students to value themselves, as well as to see into the lives and experiences of others. I do believe that, like PE or Library, there should be a minimum requirement for students in our system for experiencing the Arts.

Section 2120.5 Curriculum Content, the Arts are grouped in a large section (d) under global citizenship (including the concepts of civics, economics, geography, world language, the arts and cultural studies, and history). It is my opinion that the arts should have their own section like Physical Education and Health, and suggest that students grades K-8 experience a minimum of one performing and one visual arts class per week for the entire school year (or the equivalent), and that our grades 9-12 students should have at least one year (or equivalent) of performing or visual arts during their high school career.

Additionally, getting to know the experiences of teachers in different age bands from around the state, I am realizing that many of my colleagues are overwhelmed with the number of students they are serving without appropriate time/compensation. It would be ideal if schools with 300 or more students had full-time Arts teachers so that they can meet the needs of their students appropriately.

Sincerely,

Abbie Bowker, M. Ed.
Rowland Fellow
Vermont Art Educator
VAEA/NAEA Member

Pronouns: She/Her/Hers (Why include pronouns?)

Please find attached a letter from a number of us who are Jewish Vermonters who support the definitions in the newly revised EQS Framework and Standards. Thank you for the opportunity to comment.

Katharine Shapiro
141 Upper Sunnybrook Road
Middlesex, Vermont 05602, U.S.A.
1-802-249-3782

October 14, 2023

Re: Final public comment on the Education Quality Standards (EQS) Framework and Standards
To: Chair Jenny Samuelson and the Vermont State Board of Education
From: Jewish Vermonters

Many of us have followed the passage of Act 1 by the Vermont legislature in 2019 and the subsequent hard work and diligence of the Coalition for Ethnic and Social Equity in Schools on the EQS Framework and Standards, evolved by the working group. As Jewish Vermonters we are writing to make clear that we fully support the final definitions of Ethnic Groups and Ethnic Studies as written. We have also followed the engagement in this process of the Jewish Communities of Vermont, the views and tactics of which we find disappointing.

From the start, JCVT has played a negative, adversarial role in the work of the Coalition, often attempting to derail a transparent, democratic process and to put the experiences of Jews before those of all other marginalized groups. Early on the Coalition made a unanimous decision, accepted by the SBE, not to include a laundry list of all possible groups who could suffer discrimination in our schools, because it could never be inclusive enough - and to instead offer a definition of Ethnic Groups as including groups **"whose members identify with each other based on certain criteria, including a common history, ancestry or culture, religion, nationality, social or geographic origin, skin color, language, and experiences of discrimination and social exclusion, persecution or other inhuman treatment."**

That Jews and antisemitism are not explicitly named in this definition in no way excludes us, as it also does not exclude any other group which suffers bullying and discrimination in Vermont schools, e.g. Blacks, Latinos, Native Americans, Muslims, Asians, South Asians and many more. And yet during the final public commentary on Oct. 3, speaker after speaker said that Jews were being left out, singled, out as not worthy of mention, and emphasized the need to explicitly name Jews, and only Jews, because of our unique history.

We are also aware that many Jewish people benefit from white privilege. If the EQS were to specifically name and elevate anti-semitism that would represent for many of us a concrete example of using that privilege to separate our community from others who suffer from multiple intersecting forms of oppression. To create a more just and equitable Vermont for all of us, we need to take a strong stand together against all forms of discrimination, harassment and hate.

Furthermore, JCVT, in its public comments, has focused on the IHRA definition of antisemitism which purposely conflates antisemitism with anti-Zionism (opposition to a Jewish-only state), criticism of the State of Israel, and support for the legitimate rights of Palestinians <https://www.hrw.org/news/2023/04/04/human-rights-and-other-civil-society-groups-urge-united-nations-respect-human>. In this they have worked openly with the Anti Defamation League, a regional and national organization with strong ties to the State of Israel.

JCVT has also attacked specific members of the Coalition, wrongfully accusing them of being anti-Israel because they are pro Palestinian, and therefore under this definition, antisemitic.

Antisemitism exists and is on the rise, as are all forms of racism today, and threatens all of us. But it is critical to understand that its proponents are right wing nationalists and white supremacists, *not* those who criticize Israel for its disregard of international law, or who support BDS as a non-violent strategy to bring Israel into compliance with international law. To ignore this fact allows real antisemitism to grow unchecked. Let us work together and build alliances to counter this more real threat to safety and equality for all Vermont students.

We thank the Coalition for its hard work, and thank you for for the opportunity to contribute to this discussion.

Sincerely,

Katharine Shapiro, Middlesex
Jamie Spector, Plainfield
Elizabeth Blum, Norwich
Perry Bellow-Handelman, Middlesex
Brian Tokar, educator, East Montpelier
David Martin, Lyndonville
Jane Alper, Peacham
Joe Alper, Peacham
Tevye Kelman, teacher, Randolph
Sarah Lowry, Drama Therapist, Northfield
Debra Stoleroff, Plainfield
Andrew Simon, Burlington
Nelson Kasfir, Norwich
Josh Golin, Newfane
Alan Berolzheimer, Norwich

Alissa Mesibov, Brookfield
Nora Paley, Thetford
Aaila Kaye, Educator, Burlington
Sarah Lowry
Andrew M. Shapiro, East Montpelier
Spoon Agave, Brattleboro
Gene Bergman, Burlington

Central Vermont Jewish Chavurah for Justice
& Liberation
Jewish Voice for Peace Vermont

Board Members,

Recent Vermont Legislation requires that Vermont State Education Quality Standards include ethnic groups "that have been historically subject to persecution or genocide" and that the curriculum address "antisemitism."

This was the language that the Legislature included as section B of the definition of Ethnic Groups.

Do **NOT** eliminate Section B's definition of ethnic groups nor the intent of this Section to insure that Vermont's students are educated about the history of racism, antisemitism, bigotry and gender bias.

*What is at stake? It is a fact that textbooks and state standards fail to provide comprehensive coverage of American slavery, the modern civil rights movement and other histories (holocaust) that involve oppression and resistance. According to a 2015 study by Penn state University, curricula about indigenous histories tend to be white-centric and cover only pre 1900 events. Only 20 states require learning about the Holocaust (according to US Holocaust Memorial Museum). And in 2021 , Illinois became the first state to require the teaching of Asian American history.

What happens when students cannot contextualize an accurate retelling of history? Historians and educators warn us that history will repeat itself. As with previous eras, we are witnessing the regression of equitable policies, a rollback of civil rights and a backlash against people who protest and demand a better society for all!

We have to teach the past to improve the future!

Thank you,

Laurie Greenberg

*Spring 2022 Learning for Justice Magazine

Full article won 2023 Green Eyeshade Award

To the Vermont State Board Of Education:

As an active Vermont Arts Educator working with students, I applaud your efforts to make our system more equitable and diverse. I feel that some of those proposed changes may actually inadvertently make it harder for me to provide equitable arts education for my students.

Please consider revising the way the Curriculum Content section covers arts education, and expanding its own section that impacts students K-12 in 4 subject areas with minimum class requirements similar to Physical Education and Library. Please also address maximum class loads in the arts that vary for discipline and developmental level. Mandating that schools with 300 or more students should have full-time Arts Instructors would help this.

Sincerely,

Ruth Ackermann
Swanton, VT
Raaabtbnt@yahoo.com

To the Vermont State Board Of Education:

As an active Vermont Arts Educator working with students, I want to thank you for your efforts to make our system more equitable and diverse. I noticed that some of the proposed changes may inadvertently make it more difficult for me to provide equitable arts education for my students.

Please consider revising the way the Curriculum Content section covers Arts Education by expanding its own section (that impacts students K-12 in four subject areas) with minimum class requirements similar to Physical Education and Library.

Please also address maximum class loads in the arts that vary for discipline and developmental level. Mandating that schools with 300 or more students should have full-time Arts Instructors would support this.

Thank you,

Julie Carino
Vermont Art Educator
VAE/NAEA Member

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Please consider revising the way the Curriculum Content section covers arts education, and expanding its own section that impacts students K-12 in 4 subject areas with minimum class requirements similar to Physical Education and Library. Please also address maximum class loads in the arts that vary for discipline and developmental level. Mandating that schools with 300 or more students should have full-time Arts Instructors would help this.

Sincerely,

Julie Cousino
Vermont Art Educator
VAEA/NAEA Member

As Vermont citizens and taxpayers for many years, we write to ask the Committee to restore “the Jewish people” to the list of ethnic groups that “have been historically subject to persecution or genocide” in the new rules for the State Education Quality Standards. Included also should be restoring the curricular subject of antisemitism which remains a chronic problem internationally.

The disturbing data on increasing antisemitism in the USA, usually a product of ignorance and superstition, makes this a serious issue with important educational implications.

Thank you for your consideration of this important issue.

Yours sincerely,

James and Judith Bernat
48 Old Farm Road
Norwich, VT 05055

TO: VERMONT BOARD OF EDUCATION
FROM: AVRAM PATT
DATE: OCTOBER 5, 2023
SUBJECT: DEFINITION OF "ETHNIC GROUP" IN ETHNIC QUALITY STANDARDS ,
RULE SERIES 2000

As I noted in my brief spoken comments at the hearing on October 3rd, I am providing these written comments to fully explain my concerns, to provide more information, historic and current Vermont context, and to ask Board members to reconsider the troubling and frankly exclusionary omission of "Part B" in the definition of "ethnic groups" in the Education Quality Standards (which I am in support of generally with this exception).

Some personal background: I have been a Vermont resident for 53 years and have been a Member of the Vermont House beginning in 2015. I am the son of refugees who escaped Poland when the Nazis invaded, and who were among the very small number of Jews who were able to get to this country then, thanks only to the heroic and unauthorized efforts of the Japanese Consul in Lithuania, Chiune Sugihara. Jews were basically not allowed entry into this country then due to the on-the-record antisemitic policies and actions of the leadership of the U.S. State Department at that time. I grew up in a community that included a number of Holocaust survivors, as well as a few who had fought in the Resistance and survived, and who were all active in Poland and in this country in Jewish organizations working for social and economic justice for all. Members of my father's family fought and died heroically in the Resistance in Bialystok. I am named after my maternal grandfather, who along with my grandmother, perished in an extermination camp they were transported to from Warsaw.

ACT 1. When Act 1 was being considered by the Legislature in 2019. I was troubled by a significant omission in the definition of "ethnic groups." I was in part responsible for the addition to the bill as passed of "Part B," which includes any peoples historically victims of genocide and persecution.

The personal impacts of bias and discrimination on people of ethnic groups defined in Section B may in some ways be different than the impacts on people

who can be identified as members of an ethnic group by other characteristics. But they are very real. There is a long history in this country, and in Vermont's own history, of open or unspoken antisemitic discrimination and exclusion by class. More recent incidents of antisemitic defacement of public buildings and homes or verbal or online attacks are physical threats, and they're real. The incidence, frequency and severity of such threats continues to increase nationally, and very much so in Vermont. In my own life, I am very aware that antisemitic incidents in Vermont are not isolated, are instigated by forces who are neo-Nazis and deeply racist as well as antisemitic. I feel that threat and I know within me that it could become more than just a threat.

Genocide. As you may know, the term "genocide" is a relatively recent one which came into being after the Holocaust. There have been more recent genocides of other peoples in other parts of the world, and throughout human history. The Holocaust was certainly greater in scale and in its systematic plans and methods by which it was carried out. But there is a much longer history, and I would ask that Board members and others read or at least scan through this brief description and chronology of numerous "pogroms" in modern as well as earlier history: <https://en.wikipedia.org/wiki/Pogrom>

In the news. The rising incidence of antisemitic incidents, also with racist language and threats as well, should be known to all working to address these issues in Vermont. I am including just three very recent news accounts of such incidents, which I ask that you be aware of, if not already:

Montpelier City Council: https://www.timesargus.com/news/local/anti-semitic-remarks-prompt-swift-response-in-montpelier/article_3cec6c58-eaec-58b3-9535-553a581a4637.html

Montpelier High School (more serious and with longer history and implications, IMO): <https://montpelierbridge.org/2023/06/mhs-swastika-not-the-only-antisemitic-incident-in-schools-mhs-swastika-not-the-only/>

Brownington (home town of Alexander Twilight, whose portrait now hangs in the State House lobby): https://www.caledonianrecord.com/news/local/old-stone-house-tower-attacked-by-vandals-painted-with-swastikas-antisemitic-hate-speech/article_218cc245-0176-5af3-ad29-7eeba94fe0b9.html

Legislative intent. So, it is therefore puzzling, but also troubling and concerning that the language in Part B of what is now Vermont Statute governing the Board and the Department of Education was omitted, not included, in the Education Quality Standard. Part B is also Legislative intent. While I am asking the Board to correct this omission, I would also like to understand the reason or motive for its omission.

Additional note, not part of my comments: These comments pasted in at the bottom of this email and attached, as well as my brief comments at the October 3 hearing, were prepared before the Hamas attack, the Israeli retaliation and all that is happening at this time. I urge all considering my comments to keep those events and any opinions and feelings about these terrible current violent attacks separate from this issue of the definition of ethnic groups in the Standard. In past discussions I have had with individuals involved in this process and on other issues regarding equity and inclusion, I have sometimes been troubled by the incorrect and harmful conflation that some make between the actions of a nation and its political leadership, with the history and experience of an ethnic group, Jewish Americans/Vermonters. They are not the same and it is wrong to make that connection. The vast majority of American Jews are descendants of immigrants and refugees who came here escaping poverty, oppression and worse, starting in the late 19th century and through the first half of the 20th. As research, including a number of surveys and reports by the Pew Research Center has shown, opinions about the State of Israel and about the concept of Zionism vary widely among Jewish Americans and Vermonters, ranging from ardent and unequivocal support to very strong opposition, and mostly everything in between. It is not accurate and in fact biased to stereotype members of an ethnic group with the actions or policies of a political state, which in some cases they may have escaped from, and in this case, never have lived in

Rep. Avram Patt, Lamoille-Washington District
Morristown, Elmore, Woodbury, Worcester & northern Stowe
Member, House Environment & Energy Committee

Mail: 139 West Hill Rd., Worcester, VT 05682

Phone: (802) 223-1014



**Public Comment - Vermont Education Quality Standards
Debora Steinerma, President, Vermont Holocaust Memorial
October 13, 2023**

I am submitting these comments in reference to the Vermont Education Quality Standards as President of the Vermont Holocaust Memorial (VTHM), the only Holocaust remembrance educational organization in the state of Vermont.

The legislative findings specifically singled out “Acts of harassment and discrimination based on religious affiliation, including but not limited to anti-Semitism and Islamophobia, have been reported in recent Vermont news reports.” This is now nowhere to be found. As we know, unfortunately Vermont is not immune to antisemitism.

There are so many valuable lessons to be learned from Jewish history and the Holocaust, including political, social, and cultural lessons. The history and current uptick in antisemitism must be identified and properly understood if there is any hope for a time of respect for all – and for Holocaust history not to be repeated. Hate is far from extinct. In 2022, there were at least 204 antisemitic incidents in New England alone: a 32 percent rise from the previous year!

VTHM requests that you specifically include Holocaust education in the standards, however Jewish history is not only one of destruction and resilience but also reinvention. Therefore, we recommend, under the definition of “Ethnic Groups”, that you include “groups that have been historically subject to persecution or genocide”. Only by including this clause will Vermont students learn about the values, customs, contributions, and ongoing struggles of the Jewish people and other groups who have lost lives to, and have endured, genocide and persecution.

It is not possible to understand western civilization without appreciating Jewish culture, history, and contributions.

Thank you for your attention and consideration of our comments.

The Vermont Holocaust Memorial is a registered 501(c)(3) organization. Tax ID# 82-1837325

Vermont Holocaust Memorial, Inc.
P.O. Box 436
Jeffersonville, VT 05464

I am writing to express my disappointment that the Vermont Department of Education is considering removing Anti-Semitism from the scope of its new rules related to inclusive and culturally responsive content.

Unfortunately anti-semitism is something that the Jewish community must confront regularly, as evidenced by recent events. Given the small size of the Jewish population in Vermont, it is likely that many Vermont students will not interact with Jewish individuals during their school years. In such a situation, it is imperative that curricula provide information about anti-semitism and its impact on society.

I hope that you will keep anti-semitism within the scope of these curricular changes.

Sincerely,

Jill Bradford
Ludlow, VT

Dear SBE,
Please include the below for public comment.
Thank you,
Rabbi Tobie Weisman,
Executive Director, Jewish Communities of Vermont

October 13, 2023

Dear Vermont State Board of Education Members,

JCVT would like to bring our concerns below to your attention during this SBE review period for the EQS.

These points were first made in August of 2022.

Over the past several years members of the Jewish community in Vermont have worked to help develop an inclusive definition for Ethnic Groups in the educational standards. In 2019, key Vermont clergy worked with the legislature to add "groups that have been historically subject to persecution or genocide" to Act 1's definition of Ethnic Groups to ensure the inclusion of Jewish Vermonters and other ethnic minorities.

We understand that the EQS' definitions of "Ethnic Studies" and "Ethnic Groups" were revised at your meeting last week (August 25, 2022) so that the EQS will not include Act 1's phrase "groups that have been historically subject to persecution or genocide."

We write to ask you to place these two definitions on your September 1 agenda and, in order to comply with Act 1, agree to either:

1. (i) accept Ms. Gleason's August 11 recommendation to include Act 1's phrase "groups that have been historically subject to persecution or genocide" in the first part of the EQS' "Ethnic Studies" definition, or
2. (ii) place that phrase in the definition of "Ethnic Groups" as Vermont legislators did in Act 1.

The Jewish Communities of Vermont's (JCVT) preference is (ii).

Yoram Samets, board member of JCVT, spoke to this at the SBE EQS Subcommittee's August 11, 2022 meeting* and, according to attendees and the meeting minutes, the subcommittee agreed to (i) above.

Definition of Ethnic Groups and Ethnic Studies: Phrase "Groups that have been Historically Subject to Persecution or Genocide"

The change agreed to on August 11, 2022 complies with Act 1 and would have Vermont's students also studying the history, struggles, and contributions of the "groups" whose histories included these horrific acts.

The SBE Subcommittee's August 25 reversal of that is substantive and conflicts with Act 1:

1. Removing the Act 1's subject "groups" would produce an EQS that does not call for those groups to be studied.
2. Placing Act 1's word "persecution" in a list of harms to be studied would have students learn about the concept but not the people that were the targets.
3. Substituting "other inhuman treatment" for Act 1's "genocide" erases it and inserts something completely different -- genocide is orders of magnitude worse than inhuman (see below).

Definition of Ethnic Studies: "Inhuman" Treatment

We understand that Ms. Garces suggested the phrase "inhuman treatment" replacing the word "genocide" in the EQS' definition of "Ethnic Studies" at the SBE EQS Subcommittee's August 25 meeting.

"Inhuman" means "lacking pity, kindness, or mercy" and is not a synonym for genocide, again the word called out in Act 1's definition of "Ethnic Groups" Merriam-Webster Dictionary and GENOCIDE Synonyms: 11 Synonyms & Antonyms for GENOCIDE | Thesaurus.com.

"Genocide" is harm at a scale and with evil and deliberate design that the word "inhuman" does not come close to capturing.

EQS Working Group leads, Amanda Garces and Mark Hage mentioned ADL's Pyramid of Hate in their written comment and Ms. Garces mentioned it again during the August 25 meeting. The Pyramid of hate differentiates clearly between actions that would be considered "inhuman" and "genocide" - it places "genocide" at the very top of accelerating levels of hate defining it as the act of "deliberately and systematically annihilate an entire people." https://www.adl.org/sites/default/files/pyramid-of-hate-web-english_1.pdf

The Holocaust in Germany 80 years ago was genocide; six million (6,000,000) Jews were deliberately and systematically annihilated by Hitler who labeled them an inferior race. Armenians were historically subject to genocide; in five years ending in 1920 the Turks of the Ottoman Empire deliberately and systematically killed between 600,000 and 1.5 million Armenians with many others forcibly deported in order to "s

<https://encyclopedia.ushmm.org/content/en/article/the-armenian-genocide-1915-16-overview>. In 1994, Hutu extremists murdered 500,000 to 800,000 minority Tutsis in Rwanda, a genocide too.

Observations

Mark Hage is an outspoken anti-Israel and pro-BDS (Boycott, Divestment, Sanctions) advocate. Education Justice Coalition of Vermont (EJCVT) devotes a large percentage of its social media to anti-Israel advocacy. This raises the question of whether the Working Group's leadership's personal bias is playing a role in this process. What assurances can you give the Jewish community in Vermont that bias against Israel is not affecting the recommendations made by the Working Group? We find it concerning that there is such resistance to using the language enacted by the legislature in response to local Jewish clergy's testimony on behalf of many in the Jewish community.

Bias

As State appointees, all members of the EQS Working Group are to leave their personal biases and animus at home:

1. State appointees, working for the people of Vermont, cannot participate in decisions if they have a conflict of interest. See 3 VSA Section 1222 ("conflict of interest" includes "a significant personal" interest).
2. When participating, they are not to discriminate against legally protected groups such as races, national origins, sex/gender, and, in Vermont, Jews. See Titles VI and IX of the United States Civil Rights Act and Governor Scott's 2021 Executive Order adopting the International Holocaust Remembrance Alliance's working definition of antisemitism for the State of Vermont. <https://governor.vermont.gov/sites/scott/files/documents/21-007%20Holocaust%20Remembrance%20Day.pdf>

Note that:

When Act 1 (H3) was before the legislature in 2019, Ms. Garces, as the founder of the Vermont Coalition for Ethnic and Social Equity in Schools (VCESE), objected to the Jewish community's suggestion that the clause "groups that have been historically subject to genocide and persecution" be added to Act 1's definition of "ethnic groups." Her arguments did not prevail:

On February 6, 2019, Ms. Garces submitted VCESE's materials to legislators that heralded her coalition's "groundbreaking work of drafting the Ethnic Studies and Social Equity Working Group bill and finding an ally [Kiah Morris] in the legislature." <https://legislature.vermont.gov/Documents/2020/WorkGroups/Senate%20Education/Bills/H.3/Written%20Testimony/H.3~Amanda%20Garces~VT%20Coalition%20for%20Ethnic%20and%20Social%20Equity%20in%20Schools~2-6-2019.pdf>

Introducing herself as the founder of VCESE, she told legislators that her coalition opposes the Jewish community's addition to VCESE's Act 1 bill -- that could result in students learning about Jewish Americans, Armenians, and Tutis minorities for example - - because that inclusion could "allow...abuses against marginalized people to occur." Including antisemitism should concern legislators too she stated fearing that would "punish advocacy groups and activism promoting boycotts of Israel." <https://legislature.vermont.gov/Documents/2020/WorkGroups/Senate%20Education/Bills/H.3/Written%20Testimony/H.3~Amanda%20Garces~Testimony-VT%20Coalition%20for%20Ethnic%20Studies%20and%20Social%20Equity%20in%20Schools~2-6-2019.pdf>

Soon after Act 1 passed, Ms. Garces' VCESE was renamed the Education Justice Coalition of Vermont (EJCVT). **(Over half of the EQS Working Group are EJCVT leaders or appointees.)**

Bias is evident throughout Ms. Garces' EJCVT's social media posts which promote Islam, Arabic, and Palestinians and are extremely critical of the State of Israel and even the Simon Wiesenthal Center which educates students about the Holocaust. EJCVT posted a warning with its Wiesenthal Center Facebook post. <https://www.facebook.com/EdJCoalitionVT/>

Mr. Hage is very public about and well-known for his support of boycotts of Israel, he is well published on the topic and is a leader of the anti-Israel activist group Vermonters for Justice in Palestine.

This summer, Mr. Hage's most recent Israel boycott campaign lost its court battle. Mr. Hage had organized a ten-year, international boycott call for Ben and Jerry's to not renew its longstanding partnership with a Jewish Israeli licensee who manufactures and distributes its ice cream to Palestinians and Jews in the West Bank. Parent company Unilever issued a sharply worded press release rejecting Mr. Hage's boycott with an unequivocal statement that it stands against both anti-Israel boycotts and antisemitism. <https://www.unilever.com/news/press-and-media/press-releases/2022/unilever-reaches-new-business-arrangement-for-ben-jerrys-in-israel/> ("Unilever rejects completely and repudiates unequivocally any form of discrimination or intolerance. Antisemitism has no place in any society. We have never expressed any support for the Boycott Divestment Sanctions (BDS) movement and have no intention of changing that position.")

Israel has been the indigenous homeland of the Jewish people for 3,000 years and became a sovereign nation in 1948. It is the only country with a majority Jewish population, located in the Middle East with 14 Muslim-majority nations around it.

"Critical/Liberated Ethnic Studies"

We assume that Ms. Garces and Mr. Hage's opinions are also informed by their support for the political movement called "critical" or "liberated ethnic studies" which works to advance a highly controversial form of Ethnic Studies that excludes ethnic groups perceived to be White,

holds disdain for the West including the State of Israel tagging both colonizers and is framed around critical race theory.

The type of ethnic studies EJCVT backs gleaned from its social media posts is "critical/liberated ethnic studies," a critical theory-informed curriculum and pedagogy designed to produce students who will move the social and political landscape of their communities and the nation to align with the ideology of the liberationists leading the movement.

Working Group Chair Amanda Garces appears to personally support liberated ethnic studies too, telling her EQS Working Group subcommittee that their EQS recommendations are a "framework for collective liberation" bearing witness to "systems of oppression" at the start of their March 2022 meeting.

Former California Superintendent of Public Instruction Bill Honig sets out the differences between inclusive and liberated ethnic studies clearly with a warning to educators. <https://edsources.org/2022/california-schools-should-opt-for-inclusive-ethnic-studies/674538>.

Some key features of "critical/liberated ethnic studies:"

(i) exclude specific ethnic and religious groups and the hate directed at them such as Armenians, Jewish Americans, and antisemitism (similar to Ms. Garces' February 2019 asks of the Vermont legislature to exclude from Act 1 groups historically subject to genocide and antisemitism).

The Liberated Ethnic Studies Coalition's co-founder Theresa Montano is clear; those who advocate for "'inclusiveness' and 'balance'...are not experts in [[liberated] Ethnic Studies [and] the Armenian genocide and the Holocaust...do not belong in [[liberated] Ethnic Studies" either. (Letter from Theresa Montano et al to the State of California (November 17, 2020)).

(ii) include specific ethnic and religious groups and forms of hate such as Muslims, Palestinians, and Islamophobia, and

(iii) contain content that:

(a) negatively frames Whites, the United States, law enforcement, and

(b) supports anti-Israel boycotts (*see e.g.* the Critical Ethnic Studies Association's resolution call to boycott

Israel <https://usacbi.org/2014/07/critical-ethnic-studies-association-passes-bds-resolution-supporting-academic-boycott/>).

In 2019, the California State Board of Education saw firsthand how these differences in Ethnic Studies content matter to the public when the CA Department of Education released a model

Ethnic Studies curriculum written by an advisory committee stacked with critical/liberalized ethnic studies supporters. Their curriculum (i) excluded large CA ethnic groups (such as South Koreans, Jews, and Armenians), (ii) omitted antisemitism from its long list of forms of hate, and (iii) suggested lessons be taught on anti-Israel boycotts. https://drive.google.com/file/d/1_LNvdDqJa0A-ougc9deePJ-XyB7JurNz/view (letter from Jewish legislators to the State).

That 9-month mandated model curriculum project required a full restart and took the State two years to complete. It earned a reprimand from Governor Newsom who issued a public apology to the ethnic groups offended by this curriculum. The State Board of Education's leadership had to intervene to ensure that the curriculum complied with State law and its directives. By the time the curriculum was completed, the public poured in over 100,000 comments and the project garnered media attention from major publications including the *New York Times*, the *Washington Post*, the *Los Angeles Times*, and the *Wall Street Journal*. It ended up costing California taxpayers \$763,000.

In conclusion, we ask that the SBE EQS subcommittee's EQS definition of "Ethnic Groups" include Act 1's phrasing noted above.

Sincerely,

Rabbi Tobie Weisman,
Jewish Communities of Vermont, Executive Director

Ted Molnar,
Jewish Communities of Vermont, Board President

To The State Board of Education,
Part B in the definition of Ethnic Groups in the Act 1 law -- "groups that have been historically subject to persecution or genocide" -- must be included in the Education Quality Standards' (EQS) and Frameworks' **definitions of Ethnic Groups**.
This is to help ensure our inclusion as Jews and the inclusion of other minorities.

Shalom,
Rabbi Michael M. Cohen

Rabbi Michael M. Cohen
Director of Community Relations, Friends of Arava Institute for Environmental Studies
Teaching Students Today So Nations Will Work Together Tomorrow
www.friendsofarava.org
www.arava.org

Conflict Resolution Faculty
Center for the Advancement of Public Action
Bennington College
www.bennington.edu

Rabbi Emeritus, Israel Congregation
Manchester Center, Vermont
www.israelcongregationvt.org
www.einsteinsrabbi.com

<https://www.jpost.com/Blogger/Michael-M-Cohen>

www.huffingtonpost.com/rabbi-michael-cohen/

<http://www.internationalpolicydigest.org/author/michael-margaretten-cohen/>
1 802 753-6432

aravakolot@yahoo.com

Skype: rabbimmc

Twitter [@RabbiMichael](https://twitter.com/RabbiMichael)

"Luddites of the world unite, you have nothing to lose but your PowerPoint." RMMC

"First you're young, then you're middle aged, then you're wonderful."
Steven Sondheim quoting Alice Roosevelt Longworth

The business of religion is to “comfort the afflicted and to afflict the comfortable” (in the words of the American journalist Finley Peter Dunne). Rabbi Bradley Artson

To The State Board of Education,

Thank you for taking the time to read this email. I am the rabbi of the Jewish Community of Greater Stowe, and have served in this capacity for 10 years, representing of that time hundreds of young members of our community and their families who have students in the local Vermont school systems from the North East Kingdom, down to Mad River Valley and everything in between.

Part B in the definition of Ethnic Groups in the Act 1 law -- "groups that have been historically subject to persecution or genocide" -- must be included in the Education Quality Standards' (EQS) and Frameworks' **definitions of Ethnic Groups.**

This is to help ensure our inclusion as Jews and the inclusion of other minorities.

Thank you for your serious consideration,

Rabbi David

--

Rabbi David Fainsilber
Jewish Community of Greater Stowe (JCOGS.org)
melodyofeverysoul.com
rabbidavid@jcoqs.org

1189 Cape Cod Road Stowe VT 05672

I do not check emails on Shabbat, Jewish holidays, or Tuesdays (my day off). If you require immediate attention on Tuesdays, please call the office at 802-253-1800.

Dear Board Members:

Recent Vermont Legislation requires that Vermont State Education Quality Standards include ethnic groups "that have been historically subject to persecution or genocide" and that the curriculum address "antisemitism."

This was the language that the Legislature included as section B of the definition of Ethnic Groups.

Do **NOT** eliminate Section B's definition of ethnic groups nor the intent of this Section to insure that Vermont's students are educated about the history of racism, antisemitism, bigotry and gender bias.

Thank you,

Lawrence R. Jenkyn, M.D.

7 Fern Lane

Hanover, N.H.

Hello,

Please include antisemitism and the Jewish experience in your new education standards. In light of recent events, it is more important than ever to make this a priority.

Thanks,

Dina Litz

MEMORANDUM

TO: EQS Rule Committee Members
FROM: Jennifer Samuelson, Chair, Rule Series 2200 Committee
State Board of Education
RE: Alignment of Select Language in Both Sets of Proposed Rules
DATE: October 12, 2023

Fellow State Board of Education Members,

I am submitting this memo as part of the public record to again reiterate the State Board of Education's intention that language used to implement the principles and goals of Act 1 will be substantively the same in the Education Quality Standards (Rule 2000 Series) ("EQS Rules") and the Independent School Program Approval Rules (Rule 2200 Series) ("2200 Series Rules") when both sets of rules are finalized and adopted by the Board early next year. As you will recall, we have stated this intention repeatedly during Committee and full Board meetings since this process began.

On Monday, October 9, 2023, the Proposed 2200 Series Rules were approved by the Interagency Committee on Administrative Rules (ICAR). They are now being filed with the Secretary of State, which will begin the public comment period through December 5, 2023. *The 2200 Series Rules, as unanimously approved by the Board at its special meeting on August 18, 2023, include updated language in two sections that differs from the language that currently appears in the parallel proposed updates to the EQS Rules, as filed with ICAR and the Secretary of State.* When the Board approved the revised language in the 2200 Series Rules on August 18, 2023, it was clear that its commitment to adopting *the same substantive language in both sets of rules* for Act 1 related amendments had not changed and that it intended to refer to the revised language in the 2200 Series Rules when it considered final updates to the EQS Rules.

Since the public comment periods for these sets of rules will not overlap as the Board had hoped, I feel it is important to expressly point out the exact language revisions that were unanimously approved by the Board in the 2200 Series Rules. In keeping with the Board's stated goal to promote consistency between the rules, the counterparts identified below will be revisited by the Board before it proposes the final EQS Rules.

Any comments received on these sections or topics during *either or both rulemaking processes* that relate to Act 1 related changes will be considered by the Board in making its final decision on language that will apply to both sets of rules.

Differences in Language Related to Discrimination
As Proposed in EQS and As Proposed in Rule 2200 (recently approved by ICAR)

Instance #1: Statement of Purpose

<p style="text-align: center;">PROPOSED EQS Rule Section 2110 Statement of Purpose</p>	<p style="text-align: center;">PROPOSED Independent School Program Approval Rule Section 2220 Statement of Purpose</p>
<p style="text-align: center;">***</p> <p>In addition to the non-discriminatory protections in Section 2113, these rules prohibit discrimination against any student pursuing an education or participating in the general life or activities of a school as a result of or based upon, ethnicity, caste, language and linguistic diversity, socio-economic status, religion, housing status, and non-citizenship or immigration status.</p> <p>These rules further require all schools to strive for a culturally responsive pedagogy that critically examines and imparts a comprehensive historical and socially conscious understanding of:</p>	<p style="text-align: center;">***</p> <p>The Board believes that any distinction, exclusion, classification, restriction or preference based on any ground, such as race, ethnicity, skin color, sex, sexual orientation, gender identification, language, religion, political or other opinion, disability, national, social or geographic origin, citizenship or immigration status, income or property, birth or other status, which has the purpose or effect of denying or impairing the recognition, enjoyment, or exercise of fundamental rights and freedoms in the political, economic, social, cultural, civil or any other field should be carefully considered and rejected if it results in unlawful discrimination or interferes with the delivery of effective, available, and equitable educational opportunities. The Board recognizes that discrimination is practiced by individuals and groups, and it is expressed systemically through the structures, laws, practices, and policies of public and private institutions, employers, and organizations.</p> <p>In addition to the non-discriminatory protections in Subsection 2223.2 (Nondiscrimination Requirements for Approved Schools), discrimination against any student pursuing an education or participating in the general life or activities of a school as a result of or based upon, ethnicity, caste, language and linguistic diversity, socio-economic status, religion, housing status, and non-citizenship or immigration status, does not embody the intent of the Board to promote welcoming, inclusive, bias-free environments for learning in Vermont's schools.</p> <p>These rules further require all schools to strive for a culturally responsive pedagogy that critically examines and imparts a comprehensive historical and socially conscious understanding of:</p>

<p>(a) the causes and effects of bias and discrimination as a result of, or based upon, the reasons set forth in Section 2113 of this Manual and in this Statement of Purpose;</p> <p>(b) why all persons should have equitable access to social and economic opportunity;</p> <p>(c) why persons and institutions must identify and prevent individual, group, and systemic racism, discrimination, and all forms of unfair treatment; and</p> <p>(d) the positive and multi-faceted contributions of different social, cultural, racial, linguistic ethnic and indigenous groups to the historical and ongoing project of building and strengthening democracy in the United States and globally.</p> <p>Nothing herein shall be construed to entitle any student to educational programs or services identical to those received by other students in the same or different Supervisory Union/Supervisory District (SU/SD) or school. These rules are in addition to and, unless otherwise specifically stated, do not supersede other rules adopted by the Agency of Education or contained in the Vermont State Board of Education Manual of Rules and Practices. This manual adopts a definition of Discrimination that is broader than its legal definition. Nothing herein shall create a private right of action.</p>	<p>(a) the causes and effects of bias and discrimination as a result of, or based upon, the reasons set forth in Subsection 2223.2 of this Manual and in this Statement of Purpose;</p> <p>(b) why all persons should have equitable access to social and economic opportunity;</p> <p>(c) why persons and institutions must identify and prevent individual, group, and systemic racism, discrimination, and other forms of unfair treatment; and</p> <p>(d) the positive and multi-faceted contributions of different social, cultural, racial, linguistic ethnic and indigenous groups to the historical and ongoing project of building and strengthening democracy in the United States and globally.</p> <p>Nothing herein shall be construed to entitle any student to educational programs or services identical to those received by other students in the same or different schools. These rules are in addition to and, unless otherwise specifically stated, do not supersede other rules adopted by the Agency of Education or contained in the Vermont State Board of Education Manual of Rules and Practice. Nothing herein shall create a private right of action.</p>
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Instance #2: Definitions

<p style="text-align: center;">PROPOSED EQS Rule Section 2114 Definitions</p>	<p style="text-align: center;">PROPOSED Independent School Program Approval Rule Section 2222 Definitions</p>
<p style="text-align: center;">***</p> <p>14. "Discrimination" means any distinction, exclusion, classification, restriction or preference based on any ground, such as race, ethnicity, skin color, sex, sexual orientation, gender identification, language, religion, political or other opinion, disability, national, social or geographic origin, citizenship or immigration status, income or property, birth or other status, which has the purpose or effect of denying or impairing the recognition, enjoyment or exercise of fundamental rights and freedoms in the political, economic, social, cultural, civil or any other field. Discrimination is practiced by individuals and groups, and it is expressed systemically through the structures, laws, practices, and policies of public and private institutions, employers, and organizations.</p> <p style="text-align: center;">***</p>	<p style="text-align: center;">***</p> <p>"Discrimination" is intended to describe any exclusion, restriction, or preference based on any protected class consistent with state and federal law that has the purpose or effect of denying or impairing the recognition, enjoyment or exercise of an individual's fundamental rights. Discrimination is practiced by individuals and groups, and it is expressed systemically through the structures, laws, practices, and policies of public and private institutions, employers, and organizations.</p> <p style="text-align: center;">***</p>

I work at the Education Justice Coalition and tonight I'm speaking for myself as a former Vermont public school student, a former educator, and multi-racial, queer Jewish person. First I want to name how concerning these stories of bullying and harassment and encourage the stateboard and any other policy makers in the room to take on bullying and harassment as a serious issue. The Education Justice Coalition is working on a storytelling campaign on bullying and harassment and encourages our partners in the Jewish community to join us.

I want to highlight that many of the concerns Jewish folks tonight are bringing up are already embedded in the updated EQS.

I appreciate and support a strong stance against anti-semitism based bullying and harassment in EQS - "Each school shall maintain a safe, accessible, orderly, civil, flexible, and positive learning environment, which is equitable, anti-racist, culturally responsive, anti-discriminatory, and inclusive; free from hazing, harassment, and bullying;"

I also appreciate the encourage of the studying of the genocides which would include the Holocaust - "This requires a critical examination of the experiences and perspectives of racial and ethnic groups and indigenous peoples that have suffered systemic oppression, marginalization, discrimination, persecution, and genocide within and outside the United States."

In January 2023 a Factsheet was released from the dept of Education expanding on the civil rights protections for students who are or are perceived to be Jewish, Christian, Muslim, Sikh, Hindu, Buddhist, or of another religious group. If Jewish people are named as a marginalized group and anti-semitism is made named as protected type of discrimination then I think it would be crucial to name other marginalized religions particularly muslim given the rise in anti-muslim hate.

I also want to name that during the Trump era the International Holocaust Rights Association Definition of anti-semitism that highlights anti-zionism instead of just anti-semitism is a dangerous definition to use because it would limit the full teaching of the Palestine / Israeli conflict and the perspective highlighted by the Human Rights Watch report naming Israel as an apartheid state. Thankfully this Trump era definition is not being upheld by the Biden administration.

One thing that makes me proud to be Jewish is to be part of a long lineage of freedom fighters who stand for collective liberation, who fight not only for our own freedom but the freedom of others. Jews were leaders in the civil rights movement risking their own safety for the justice of others. So I think it's crucial if we're advocating for Jewish people to be named in this document then we also need to name Muslims as a marginalized group and any other marginalized religious group be both named and protected.

I am writing regarding the new rules for state education quality standards. I am specifically voicing my concern regarding the elimination of section B defining ethnic groups. These standards must include in its definition of groups historically subjected to persecution. It is common knowledge that antisemitism is on the rise in the United States, including in Vermont. In the past week, anti-Israeli/Jewish events have occurred in Vermont as well as across the country in response to the terrorist attack on Israel. These events illustrate the importance of educating children on the historical facts of antisemitism. Thank you for your attention to the important oversight.

Deborah Kaplan
Norwich VT

To whom it may concern:

I feel strongly that whatever Standards are adopted in VT include language about ethnic groups that have been historically subject to persecution or genocide and that the curriculum specifically addresses antisemitism. This was the language that the Legislature included as section B of the definition and section B was eliminated.

Please feel free to contact me if you have any questions about this.

Sincerely,

Ellen Bettmann (she/her)

<ellen.bettmann@gmail.com>

All lives can't matter until Black lives matter

In your Vt agency of education you absolutely MUST include the fact that antisemitism is rampant not only in the world but also here in the USA and in Vermont!

Sincerely
Aliza Levy
Quechee Vt

As a resident of the Upper Valley, I'm writing to ask that section B of the definition of Ethnic Groups be upheld i.e. inclusion of the Jewish experience. Vermont children excluded from learning about who Jewish Americans are will only feed into more exclusion, antisemitism, racism, and hate.

Consider the events of the last two-three years in the Upper Valley: antisemitic acts committed against Jewish students at UVM, and at Dartmouth, the desecration of the outdoor menorah.

Children need to have this important curriculum!

It seems more important than ever for Vermont to include antisemitism in the rules for inclusion. Given the tenor of the times and the incitement against Jews which are historical, please don't overlook the need to protect Jewish people. Thank you for your consideration

Arline Rotman
Norwich Vermont

The working group removed all references to Jewish people in their definition of ethnic groups. despite public and faith community comments requesting the inclusion.

The working group removed “antisemitism” from the list of discriminatory categories the EQS should address even though the legislature included this language in its original goals.

Antisemitism is the oldest hatred in human history. It has been a problem for thousands of years. Jews have been blamed for a host of problems since the Protocols of the Elders of Zion was published as propaganda in Russia in 1903.

Last week the world witnessed hundreds of Jewish men, women, children, and babies being slaughtered in their homes on the sabbath and a normally joyous holiday that celebrates the Jewish people’s love of Torah — the book of law that guides us to be moral and upstanding citizens of the world and community. Vermont should acknowledge that Jews are scared when they see their fellow Jews dismissed, chided, blamed, attacked, and murdered across the globe in the one place that should be considered their safe homeland.

Vermont should be willing to address the needs of an ethnic group with a rich culture that has sustained persecution for millennia. Vermont educators should acknowledge that Jewish students are deeply disturbed when they have to endure racial slurs, swastikas carved into school property, or having their holiest days of the year ignored on school and athletic schedules.

Vermont should be willing to acknowledge Jews have a history worth knowing and to protect its own Jewish students from harassment in its schools. If Vermont is not willing and able to do this then Vermont is not living up to its own motto of Freedom and Unity.

Sincerely,

K. Heidi Fishman, MA, EdD

Pronouns: she/her/hers

Norwich

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Vermont Agency of Education
1 National Life Drive, Davis 5
Montpelier, VT 05620-2501

Dear Committee Members:

I am sending in my written comments below, much of what I expressed at the October 3rd meeting, with some additional information.

My name is James Pasch, and I am the Senior Director of National Litigation for the Anti-Defamation League (ADL). I am submitting written testimony on behalf of ADL's client, Jewish Communities of Vermont (JCVT). JCVT works tirelessly to bring people together throughout Vermont to build community and support Jewish life in the state. We are submitting testimony as JCVT's legal representatives, that Part (B) of the definition of Ethnic Groups must be reinserted into the definition to maintain compliance with what is legally required under Act 1.

JCVT and ADL strongly support an ethnic studies program that teaches students to appreciate the challenges and contributions of different ethnic groups. Jewish organizations like ours know all too well the importance of such educational programs for preventing bigotry and discrimination.

ADL is the nation's leading anti-hate organization, and as part of our work, we track antisemitic incidents across our nation each year. In 2022, ADL tabulated 3,697 antisemitic incidents of assault, harassment and vandalism throughout the United States. Vermont, unfortunately, is not immune to the nation's woes when it comes to the growth of antisemitism. Since 2018, ADL has tracked over 50 incidents of antisemitic harassment, vandalism and antisemitic propaganda distribution in Vermont.

There could not be a more important time to ensure that we have an ethnic studies program instituted in Vermont schools. The Vermont Legislature passed Act 1 with the noble aim of teaching students about marginalized groups, and those harassed and discriminated against. With this goal in mind, the legislature itself defined "Ethnic groups" to include "groups that have been historically subject to persecution or genocide." That clearly includes the Jewish people.

To implement Act I, the legislature appointed a Working Group. (Act 1 (g)). The Working Group and the Agency of Education, like all state agencies, must abide by their mandate. Here, that mandate largely focused on "reviewing *standards*" for implementing Act I, and the ability to review statutes, board of education rules, and school district and supervisory

union policies “that concern or impact *standards* for student performance.” (Act 1(g)(1)-(2)).

The SBE changed the legislature’s definition of Ethnic Group by removing part (B) of the definition, without a legal right to do so. Here, the SBE deleted “groups that have been historically subject to persecution or genocide” from the definition of Ethnic Groups. This restricts rather than expands, the definition. To remain legally compliant with Act 1, Part (B) of the definition of Ethnic Groups must be reinstated.

Thank you for your time, and we look forward to hearing back from this committee.

Sincerely,

A handwritten signature in black ink, appearing to read "James Pasch". The signature is written in a cursive style with a large, stylized initial "J" and "P".

James Pasch
Senior Counsel & Senior Director of National Litigation

Dear State Board of Education,

Jewish Communities of Vermont is sharing our concern for your proposed Education Quality Standards. This is a follow up to our comments we made verbally at the first hearing.

Sincerely,

Rabbi Tobie Weisman

Rabbi Tobie Weisman, MSW
Executive Director, Jewish Communities of Vermont
cell: (802) 371-9697
rebtobie@jcv.org
P.O. Box 4472
Burlington, VT 05406



October 10, 2023

My name is Rabbi Tobie Weisman. I am the Executive Director of Jewish Communities of Vermont, and a member of Beth Jacob Synagogue in Montpelier. I am also the Founding Director of the Yearning for Learning Center for Jewish Studies.

Jewish Communities of Vermont is a non-profit which has been supporting Jews and Jewish organizations throughout Vermont, including advocating for their interests, since 2013. This is an issue that I personally and our whole organization care deeply about.

I want to start from the basic premise that we at Jewish Communities of Vermont support a comprehensive and pedagogically sound ethnic studies program for the Vermont educational system. In fact, when our state legislature passed its definitions of ethnic groups and ethnic

studies in Act I, we were supportive. Our concern, which we have expressed continually over the last year, and most recently with a letter we authored in August to the State Board of Education, is the significant and meaningful changes that have been made to the all-important Act I definitions of Ethnic Groups, in what is now the Education Quality Standards in front of you today.

Act I that was passed by our state legislative body after debate, clearly and intentionally defined Ethnic Groups as follows: (A) nondominant racial and ethnic groups in the United States, including people who are Abenaki, people from other indigenous groups, people of African, Asian, Pacific Island, Chicano, Latinx, or Middle Eastern descent; and (B) groups that have been historically subject to persecution or genocide.

Jewish Communities of Vermont advocated for part (B) of the definition, because groups, including Jews who have been historically subjected to persecution and genocide should be studied. Simply put, the current definition of Ethnic Groups that is in front of you today has dramatically altered the definition of the defined groups in part (A) and has completely removed part (B) from the definition of Ethnic Groups. By removing part (B) of the definition of Ethnic Groups and placing the words “genocide and persecution” as things to be studied in Ethnic Studies, Vermont educational curriculum will inevitably wind-up erasing the study of Jews and other groups of people that have been subjected to a history of genocide and persecution. It is not just the genocides and persecutions that can and should be studied by our students as stand-alone incidents in world history, but rather, it is also the history, culture and contributions of these people that should be explored.

At a time of heightened and rising antisemitism in the United States and throughout the world, it is imperative that we have definitions that will require teaching about the Jewish people as an ethnic group. For example, many people believe that being a Jew means that you practice Judaism. While Judaism is the shared religion of the Jewish people, Jews can be deeply religious or completely secular; either way, a Jewish person is a Jewish person. Consequently, and contrary to what many people think, antisemitism in its modern form is rarely about religion. It’s not usually anti-Judaism. It’s almost always anti-Jew. It is not about how Jewish people pray, but

about what Jews are falsely accused of doing, often collectively. For antisemitism and its evils to be properly taught, our students need to understand both its origins and its modern applications – it would be impossible to understand modern antisemitism without a comprehensive overview of the Jewish people. Under Act I's original definition of Ethnic Group, the Jewish people would be studied under part (B).

We are asking this committee to recommend that part B of the definition of Ethnic Groups, that was already passed by our state legislature be reinserted. The definitions were created by our legislative body after much thought and discussion and with input from affected communities, for very important reasons. The legislative definitions of Ethnic Groups should continue to guide how we prepare our young people to think objectively in an increasingly complex world.

Dear Madams and Sirs:

We strongly support adopting new Rules to the State Education Quality Standards, mandating equitable, antiracist, culturally responsive, anti-discriminatory and inclusive curricula. We are aware that the standards include ethnic groups that have been historically subject to persecution or genocide, including antisemitism, as stated in Section B. This language unequivocally includes Jewish people.

We are concerned to learn that the drafting agency for the final Standards will no longer define the Jewish community as an Ethnic Group. This would be a serious mistake. As parents of three Jewish daughters, we have lived in Vermont since 1979. Our girls were raised in Woodstock and attended public school here. There have been upsetting incidents when our children and ourselves as adults have been confronted by ignorance of the ethnic Jewish community by other Vermonters. It is clear the adoption by the legislature of new rules should acknowledge this issue.

Ignorance is passed from generation to generation. Ignorance leads to hate and hate leads to violence. We are seeing too much violence against minority groups in today's world. Only through education can ignorance be stopped.

Thank you for your good work and consideration.

Respectfully submitted,

Susan & Barry Feinberg

802-457-3372

With the rise of antisemitism in the U.S. it is imperative to include that factor along with other racial bigotries on the rise in the U.S.

The history of genocide and hate in any form, in any part of the world, the ignorance of history will lead to increased and uninformed opinions and actions and intolerance based on no factual information, but only on misinformation and unfounded prejudice. Future generations MUST learn from past history in order to create the future guaranteed by our Constitution and the promise of a true democracy.

Sent from my iPhone

Selma

As a Jew living in Vermont, it is appalling that section B will not be part of the Vermont legislation that mandates inclusion and against antisemitism in the curriculum for our students. What is happening in Israel today is an example of hatred towards Jews. We have a responsibility to educate our young people so this hatred doesn't infest our State.

Betty Barba
Norwich Vermont.

Sent from my iPad

As a retired teacher and proud Jewish Vermonter, I'm glad to hear the agency is considering adopting new rules regarding inclusivity. I must say that I am very disappointed, and to be honest, baffled as to why the group drafting the rules has sought to eliminate Jewish people from definition of Ethnic Groups. I urge you to include Jewish people in this definition. Antisemitism is not new, and it is not gone. My granddaughter who graduated from high school in June 2023 was a victim of two instances of harassment and bullying based on her religion. Having someone ask her about gas chambers, as if it's just a casual conversation is not acceptable and should never happen. When you're the only Jewish person in your class, it's even more important that people stand up, not only to protect you, but to educate people, so there will be less likelihood of ignorant, hurtful comments being made. Clearly, there is some knowledge about historical events but there is an obvious lack of understanding and critical thinking about these events. Additionally, education should be not just about tragic events in history, but also about the wonderful contributions made by Jews that have benefited and continue to benefit all humankind.

Another point of concern is that services particularly the High Holidays at Jewish places need to have armed guards there. There aren't even words to describe how wrong it is that this is necessary.

Lastly, a concern that I had as a teacher here in Vermont stemmed from the lack of diversity, both in terms of students and staff. I worry that our students would be behind others when they left Vermont for college or jobs because of their lack of exposure to other cultures and ethnicities and ideas. Vermont students deserve the best.

Sincerely,
Susan LeDrew
Springfield, VT

Dear State Board of Education,

I write to provide my thoughts on the Vermont Agency of Education's new Rules to the State Education Quality Standards (the "Standards") that implement the recent state legislation mandating "equitable, antiracist, culturally responsive, anti-discriminatory and inclusive" curricula for all students (the "legislation"). This is a good thing and very important. The legislation requires the Standards to include ethnic groups "that have been historically subject to persecution or genocide" and that the curriculum address "antisemitism." This was the language that the Legislature included as Section B of the definition of Ethnic Groups.

However, I have learned that the Agency or the Board drafting the Rules has sought to eliminate Section B of the definition of ethnic groups, thus effectively excluding the Jewish people from the definition of Ethnic Groups. The Anti-Defamation League (ADL), the AJC, and Jewish Communities of Vermont are all deeply concerned about leaving Section B's definition out. In fact, I would argue that the gruesome, deplorable, and heinous events of the past days in Israel and some of the reactions around the world against Israel, even after these barbaric crimes, are enough support to include Section B.

To be clear, "*Judaism is the ethnic religion of the Jewish People. It is comprised of the ancient beliefs, mythologies, and laws of the Jewish tribe. Judaism is not a religion in the western or modern sense. It's a word to describe all of the cultural and spiritual characteristics that make our tribe what it is.*" See, <https://www.rootsmetals.com/blogs/news/what-is-judaism-actually> to learn more. Perhaps, and ironically, a misunderstanding of who Jews are and what Judaism is, has led the Board of Education to consider eliminating Section B.

In addition, antisemitism is a rising problem in the United States, and is statistically, the basis of the majority of religion-base hate crimes. This past year saw an abundance of issues at University of Vermont. Vermont synagogues have crash barriers, hire armed security, and install bullet-proof glass in their buildings in response to rising concerns.

Further, both in America and internationally, Jews have historically been kept from many arenas of public life. Jews were prohibited from buying homes in many neighborhoods and still face obstacles. Jews were kept from practicing at hospitals and still face hostile environments. Jews were excluded from private clubs and still are. Jews routinely decide to live in certain neighborhoods because they know their kids are not safe in others. Systemic discrimination still concentrates Jews in fields where our advancement isn't dependent on others.

Vermont educators should want Vermont children to learn about the Jewish American experience, understanding Judaism as the ethno-religion that it is. Leaving this important ethnic minority out of the curriculum feeds into further antisemitism, racism, and hate. You of all people know that education is key to understanding one another. Vermont students must learn about Jews and Jewish history to further their

understanding about America's history and its relationship to ethnic minorities. The White House has issued the National Strategy to Counter Antisemitism. Pillar 1 of that strategy reads, "Increase awareness and understanding of antisemitism, including its threat to America, and broaden appreciation of Jewish American heritage."

I do not understand the rationale for removing Jews and antisemitism from the curriculum. I have some insight that organizations from other parts of the United States have taken similar steps to eliminate antisemitism from their curricula and somehow this seeped into Vermont. The irony is not lost on me, as I would argue that the very essence of antisemitism is to pretend that antisemitism does not exist, that the Jewish American experience can be glossed over and thus be eliminated from the curriculum.

For the reasons above, and others that I have not discussed, please ensure that you include the Jewish people in the definition of Ethnic Groups in Section B.

Sincerely,
Daphne Moritz, Quechee, Vermont
Member, Shir Shalom, Woodstock, Vermont

Daphne Moritz (she/her)
Sheehey Furlong & Behm P.C.
205 Billings Farm Road, Suite 4B | White River Junction, VT 05001
Office: 802.864.9891 | Direct: 802.865.6361
Email: dmoritz@sheeheyvt.com

Sheehey
FURLONG & BEHM P.C.
ATTORNEYS

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Dear fellow Vermonters:

As a 75 year old Jewish woman residing in Reading, VT, I applaud the work that you are doing. However, I am extremely concerned that Jewish people may not be included in the definition of ethnic groups defined in Section B. Antisemitism has increased dramatically in the US in the past two years, as evidenced by the documented, enormous % increase in acts of antisemitism. And, as if it is not enough that 6 millions Jews were murdered in The Holocaust, just look at what is going on in Israel right now, with the brutal and animal-like attacks by Hamas on the citizens of Israel.

You know, I used to think that antisemitism in the US and the widespread condemnation of Israel were two distinctly different things and that one could be 'anti-Israel' without being antisemitic towards American Jews. I no longer believe that, nor should you, as you opine on curriculum changes.

Sincerely,

Carol Anderson
1584 Spear Cemetery Road
Reading, VT 05062

Good day,

I am writing on behalf of the dance teachers in Vermont regarding the revisions to the Educational Quality Standards and arts education.

Please consider our voice in your work.

[EQS Revision Letter from VT Dance Teachers](#)

Sincerely,

Rebecca McGregor

.....

Vermont Board of Education

Oct 10, 2023

To Whom It May Concern,

We are writing to express our strong support for the inclusion and emphasis of arts education within the Educational Quality Standards. We advocate for a well-rounded education and firmly believe that arts education is integral to the overall development and success of our students. In reading through the proposed revisions, **we feel strongly that the revised EQS will waterdown the value of arts education (particularly the performing arts).**

Arts education encompasses a wide spectrum of creative disciplines, including visual arts, music, theater, dance, and more. These disciplines not only foster creativity and self-expression but also offer numerous benefits that significantly enhance the quality of education and the lives of our students.

Here are some key points highlighting the value of arts education in the Educational Quality Standards:

Enhanced Critical Thinking: Engaging in arts education encourages students to think critically, analyze information, and make informed decisions. This skill is transferable to other subjects and real-life situations, enabling students to become better problem solvers.

Improved Academic Performance: Numerous studies have shown that students who participate in arts education tend to perform better in other academic subjects. The discipline and focus required for artistic pursuits can positively impact students' overall academic achievements.

Cultural Appreciation and Diversity: Arts education introduces students to various cultures, traditions, and perspectives. It fosters an understanding and appreciation of diversity, promoting tolerance and empathy among students.

Emotional Expression and Well-being: The arts provide a unique outlet for emotional expression, helping students manage stress, anxiety, and other emotions. This can contribute to improved mental health and overall well-being.

Creativity and Innovation: The arts inspire creativity, innovation, and the ability to think outside the box. These skills are increasingly valuable in today's rapidly changing world.

Preparation for the Workforce: Many industries, including technology and business, value employees with creative problem-solving skills and the ability to work collaboratively. Arts education prepares students for these demands in the workforce.

Community and Civic Engagement: Participation in the arts often involves collaboration, teamwork, and community involvement. It fosters a sense of civic engagement and social responsibility.

We feel strongly that the revised EQS will waterdown the value of arts education (particularly the performing arts).

As written in the revised EQS document, "Each school shall ensure students are able to access academic and experiential learning opportunities that reflect their emerging abilities, and aspirations, as outlined in the students' Personalized Learning Plans and aspirations, as outlined in the students' Personalized Learning Plans."

This particular revision expresses the need to include a vibrant, inclusive and core arts education experience for all students.

Tying "the arts" under global citizenship and having simply one mention of artistic expression does not address the intended goal of access to a well-rounded arts education. The arts should be a stand alone category under curriculum.

Another line in the EQS revision document that touches closest to the value of arts education is, "Each school shall provide appropriate socially and culturally responsive learning opportunities to all students to support their attainment of the standards approved by the State Board of Education and each public school shall provide support for students who require additional assistance to succeed or be challenged in the general education environment."

The arts offer unique and valuable opportunities for socially and culturally responsive learning.

Cultural Expression and Representation: The arts encompass a wide range of cultural forms, including music, dance, visual art, literature, and theater. These art forms often serve as powerful means of expressing cultural identity, values, and experiences. By engaging with culturally diverse artworks and creating their own, students can explore and celebrate different cultures, fostering an appreciation for cultural diversity.

Inclusive Curriculum: Arts education can be intentionally designed to include artworks and practices from various cultures, both historical and contemporary. This inclusivity ensures that students from diverse backgrounds see themselves represented in the curriculum, which can enhance their sense of belonging and identity within the educational environment.

Diverse Perspectives: Through exposure to art from different cultures, students gain access to diverse perspectives and worldviews. They can explore how artists from various backgrounds interpret and respond to social and cultural issues. This exposure encourages open-mindedness and empathy as students learn to appreciate different points of view.

Authentic Learning: The arts provide opportunities for authentic and experiential learning. Students can engage in activities such as traditional dance, music, or visual art techniques that have deep cultural significance. This hands-on approach allows students to connect with cultural traditions on a personal level, promoting a deeper understanding of cultural practices.

Socially Relevant Themes: Many artworks in the arts address socially relevant themes, such as identity, social justice, inequality, and human rights. By analyzing and creating art that addresses these themes, students can engage in meaningful discussions and critical thinking about societal issues, promoting social awareness and activism.

Community Engagement: Arts education often extends beyond the classroom through community partnerships, cultural events, and exhibitions. Students can collaborate with local artists and community members to create art projects that address community needs and issues, fostering a sense of social responsibility and community engagement.

Personal Connection: Artmaking allows students to draw from their own cultural backgrounds and personal experiences. They can incorporate elements of their own heritage, traditions, and stories into their creative work, making their learning experiences more personally meaningful.

Multimodal Learning: The arts engage students in multimodal learning, where they use different senses and forms of expression. This can be especially beneficial for learners with diverse learning styles and abilities, as it provides multiple entry points for understanding and communication.

Global Perspective: Arts education can broaden students' understanding of the interconnectedness of the world. By exploring art from around the globe, students learn about the ways in which cultures influence and inspire one another, leading to a more global perspective.

Promoting Equity: Culturally responsive arts education can help bridge educational equity gaps by valuing and affirming the cultural backgrounds and identities of all students. It creates a more inclusive and equitable learning environment where every student's voice is valued.

To develop a strongly supported well-rounded education that values all opportunities for student development, we propose the artistic expression portion be created into a similar category as PE.

For instance, arts education should be accessible to all students as a core curricular offering in at least 1 of the arts disciplines throughout PreK-12th grades (1 art class per week for all students PreK-8 and a minimum of 1 fine and/or performing art credit for all students grades 9-12). All students graduating from a VT high school should be required to obtain a minimum of 1 art credit from the fine/performing arts disciplines.

I kindly urge you to consider these points as you deliberate on the importance of arts education within the Vermont Educational Quality Standards. Our students deserve a well-rounded education that includes the arts as a core curricular experience, as it not only enriches their lives but also equips them with skills and perspectives necessary for success in the 21st century.

Sincerely,

Taryn Colby, Dance Teacher North Country Union High School

Nichole Lefavre-Damon, Dance Teacher Lamoille Union High School

Rebecca McGregor, Dance Teacher Lyndon Institute

Colleen McHugh, Dance Teacher BFA St. Albans

Hello,

It's great that you're working on new inclusive rules for Vermont's education quality standards.

It is essential that Jews and antisemitism be included in these rules.

My children, currently in Woodstock Union High School, have experienced first hand the kind of ignorance that happens if this is not taught sufficiently. Kids have done Hail Hitler salutes to them which although in itself is not the worst possible thing, it shows a level of ignorance that leads to hatred and opens the doors to history repeating itself.

The standards must include groups "that have been historically subject to persecution or genocide" and that the curriculum must address "antisemitism." How else can it be inclusive? This is not a marginal group to which nothing bad has ever happened, or stands no risk of it happening again. I don't see how anyone can justify NOT including anti semitism in this curriculum.

Thank you,

Susanna Stein
67 Grassy Lane
Woodstock VT 05091

I suggest you revise wording from "ethnic groups" to "ethnic and religious groups that have been historically subject to persecution."

Adding the word "religious" insures that you avoid the issue of how the group is viewed. Some people view Jews, for example, only as a religious group, others view Jews only as an ethnic group. This may be the case for other groups.

This very distinction actually affected the way holocaust survivors were registered until it was acknowledged that people of different ethnicities and nationalities could all have a common religion. Similarly, people of different ethnicities could have the same religion.

Larry Kasden

Sent from my iPhone
5525 No Bridgewater Rd.
Woodstock, VT 05091
802-457-9221
802-291-3616

To the team considering the EQS Rule Series 2000 Review

Thank you for your attention and work in developing these changes. This work is deeply important and the value to the children of our state is crucial. I believe that implementation of Act 1 and the definition of Ethnic Groups, must include part B of the definition "groups that have been historically subject to persecution or genocide." This must be included in the Education Quality Standards' (EQS) and Frameworks' definitions of Ethnic Groups in order to address the impact of antisemitism.

The White House has issued the National Strategy to Counter Antisemitism. Pillar 1 of that strategy reads, " Increase awareness and understanding of antisemitism, including its threat to America, and broaden appreciation of Jewish American heritage."

It is incomprehensible to me as a rabbi in our beautiful state, why Vermonters, our friends and colleagues would fail to require teaching of the Jewish experience as part of this important curriculum?

In hope for a brighter and less hate filled future for all

Rabbi Ilene Harkavy Haigh

Rabbi Ilene Haigh
Congregation Shir Shalom
1680 West Woodstock Road
PO Box 526
Woodstock, Vermont 05091

1 802 457-4840
1 914 621-8776

While listening to the October 4, 2023 meeting, I heard a consistent concern raised by the Jewish community regarding the changes to Paragraph B in Act I. While I understand the concern and optics of removing specific reference to Judaism from the current language, I fully agree with and support the working group's revisions which remove a laundry list that may unintentionally limit or narrow the definition of discrimination. However, given the historic nature of persecution and pogroms aimed at Jewish communities around the world, I think including a phrase like ". . . including, but not limited to those of Jewish, Christian, Muslim, Hindi, or Sikh faith . . ." might help alleviate the concern that the Jewish community is being pushed aside while also ensuring that no group facing discrimination is being excluded from protection under this Act.

Thank you

Mark Koenig

TO: State Board of Education

FROM: Mark Koenig

RE: Public Comments - Rule Series 2000 Proposed Changes

DATE: October 5, 2023

Some of the concern around these changes stem from the recent Supreme Court decision in Carson v. Makin, and the attempt by different organizations within Vermont to fashion regulations that follow this ruling while staying true to the requirements set out under the Vermont Constitution.

Many private schools seem to rely on the idea that "we're different than public schools and need to be treated as such." For example, in a letter dated August 18, 2023 from the heads of four independent schools to the VT State Board of Ed, the closest expression of any specific concerns about the proposed rule changes was that "our non-profit governance structure is incongruent with some of the specific governance requirements of EQS." This letter provided no specifics or details as to how non-profit governance structures differ in ways to make it incongruent to follow governance requirements, nor is there any attempt to explain how their existing governance structures might nonetheless comply with the spirit of the EQS requirements at issue or how these EQSs might be revised to retain their underlying intent but in such a way to encompass different governance structures.

Bright line rules are easiest to administer and enforce, but can be restrictive. Exceptions can recognize that one size does not always fit all, but such exceptions must be narrowly tailored – which requires specificity. Exceptions also require the regulatory body to investigate and make rulings on whether and/or how organizations are implementing such exceptions. Both AOE and the State Board have not consistently provided timely rulings in such areas. For example, during this past February's State Board meeting, "Kolbe moved to postpone consideration of re-approval [of the Mid Vermont Christian School] until such time a completed application has been received to include a signed Addendum for Independent School Applications – the "attestation clause" – without revision and consistent with Rule 2226.6 that requires the head of school to sign an assurance that the school complies with the Vermont Public Accommodations Act (9 V.S.A. Chapter 139) in all aspects of the school's admissions and operations . . .The vote passed unanimously." State Board Rule provides that a school completing a timely application for renewal extends until the Board acts on the application (SBE Rule 2223.6). To date, the State Board has not acted on the Mid Vermont Christian School application for renewal meaning that this school which is clearly non-compliant continues to remain listed as an approved school. If this is how the State Board policies its own policies and requirements, why will any independent school worry about being called out on even a set of diminished EQSs?

"Different" provides no detail which could allow a regulatory body to craft a meaningful exception. Bright line rules are easy to understand and follow, but can seem too rigid or dogmatic; exceptions, while permitting flexibility or acknowledgment of a unique situation, also tend to result in the problem of "give an inch and take a mile."

Consider when someone wants to purchase a home. Most buyers look to obtain a mortgage from a lender. The lender sets out a list of requirements and obligations that the borrower must agree to in order to obtain the mortgage. If the buyer does not wish to comply with those requirements, the buyer

is free to walk away from the lender and find another way to fund the purchase or decide not to purchase the property.

Similarly, if private or independent schools want to use taxpayer funds to operate their institutions, they must abide by the same requirements as public schools, including requirements such as transparency of budgets, accreditation of educators, and practicing nondiscrimination with regard to race, gender, religion, and special needs. If certain public or independent schools do not want to abide by such requirements, they are free to find other means by which to fund their operations — but they cannot demand the use of taxpayer funds to do so.

I strongly encourage the State Board to adopt a single set of standards that will apply to all of Vermont's publicly-funded students.

Thank you,

Mark Koenig

Member, Addison Northwest School Board

Member, Vermont School Boards Association

Chair, Employer Commission on Public School Employee Health Benefits

Hi,

I wanted to comment on the proposed rule, and note and applaud the efforts of the Mount Mansfield School District as it comes to cultural inclusion and sensitivity.

The MMUSD elementary school system is currently graduating a class a year (soon to be two) of bi-lingual fluent spanish speakers as a part of their Spanish Immersion program. The students study almost exclusively in spanish until third grade when some english is begun to be included. (I have one child who has graduated from the program and three others currently enrolled.)

I feel very strongly that when it comes to cultural sensitivity, there is no match for speaking the language. A student who is able to fluently converse with another person will be more understanding and empathetic to them (almost by definition).

My concern is that in the proposed rule language learning is separated from "ethnic Studies" and (mostly) from "Culturally Responsive Teaching". I understand and applaud the effort to promote more culturally sensitivity and awareness, but I worry that it will manifest itself in a teacher telling students in English about Latin America, for example. The cultural sensitivity gained from learning another language cannot be compared to a survey of facts and figures about another culture - I applaud the MMUSD for their forward thinking recognition of this fact.

What if we set a statewide goal of having 80% of elementary school students in Vermont graduate with fluency in two languages in the next eight years? That is not only a reasonable thing to achieve (92% of students in Europe learn a foreign language, for example), but it will promote a radically more culturally sensitive student body and give a tool for students to be able to use personally and professionally their entire lives.

A further benefit is that this is a measurable goal to achieve greater tolerance and inclusion, where a survey class in "cultural literacy" is, frankly, not going to achieve that goal. It will be difficult and require resources and effort, but will have a massive return on that investment. To paraphrase our president - "don't tell me how culturally sensitive you are, show me how well you can communicate with other cultures and I'll tell you how culturally sensitive you are."

Thank you for your thoughts on this challenging subject.

Roger

—

Roger Brown

Slopeside Syrup

(802) 578-6330

Roger@slopesidesyrup.com

SlopesideSyrup.com

Untapped.cc

My name is Maya Sobel and I am a Jewish student at the University of Vermont who grew up in the Vermont education system. I am grateful for all of the opportunities that UVM has given me through my Jewish activism including bringing a Holocaust survivor to campus, traveling to the UAE to converse with Emiratis about the emerging Holocaust education in the country, visiting the only Holocaust museum in the Arab world, and meeting with the Biden-Harris Administration to contribute to the first ever U.S. National Strategy to Counter Antisemitism.

Changing one word of clause B would change the entire trajectory of the education of future generations.

I was only in highschool a few years ago and I remember what it was like to sit in a classroom for 8 hours straight. I noticed what caught my peer's attention. Nazis. Gas chambers. Human experiments. Not the people they killed.

It has always disgusted me how students were more fascinated by mechanics of systematically murdering millions of people than learning about the minority groups that were dehumanized to the point where educated people- doctors, lawyers, teachers- decided that it was the right decision, or were indifferent to the decision, to eradicate them from society. This isn't limited to European history, as the Holocaust affected Jews across North

Africa and the Middle East even if they tried to change their religion (because Jews are an ethnic group).

I ask you: “what is the point of teaching solely about the systematic murder of millions of people while keeping their identity hidden?” So students would not be able to recognize antisemitism but know about the evil humans are capable of inflicting onto each other?

One of my friends is an education major completing her teaching practicum at a local middle school. Her students joke to each other during class through “Heil Hitler” salutes. Taking out the ethnic groups affected by genocide from clause B would enable this behavior after they graduate your school system.

George Santayana famously said that those who do not know history are doomed to repeat it. Learning about the most documented dehumanization process of a minority group that lead to a genocide should not be controversial. Only antisemities would want the actions of the past repeated.



LEGISLATIVE REPORT

Final Recommendations of the Census-Based Funding Advisory Group

Report to the House and Senate Education Committees; State Board of Education; and
Secretary of Education

June 30, 2023

Submitted by the Census-Based Funding Advisory Group

LEADERSHIP SUPPORT OVERSIGHT

Legislation

This report is submitted pursuant to Act 173 of 2018 Sec. 9 (f) to the House and Senate Committees on Education and the State Board of Education (SBE) with “a status of implementation under this act and any recommendations for legislation.”

Charge of the Group

Act 173 of 2018 created the Census-Based Funding Advisory Group “to consider and make recommendations on the implementation of a census-based model of funding for students who require additional support.” The group was convened in 2018, and by action of the General Assembly its existence was extended through both periods of implementation delay. The Group held its final meeting on June 5, 2023.

The Group is charged with the following:

- “[A]dvice the State Board of Education on the development of proposed rules to implement this act prior to the submission of the proposed rules to the Interagency Committee on Administrative Rules;
- [A]dvice the Agency of Education and supervisory unions on the implementation of this act; and
- [R]ecommend to the General Assembly any statutory changes it determines are necessary or advisable to meet the goals of this act, including any statutory changes necessary to align special education funding for approved independent schools with the census grant funding model for public schools as envisioned in the amendments to 16 V.S.A. chapter 101 in Sec. 5 of this act.”

As of the final meeting, the Advisory Group has convened a total of 42 times. The following are the Group’s final recommendations, offered as a supplement to its January Final Report to the General Assembly. As such, it does not attempt to restate or repeat the recommendations made in January, but rather offers final recommendations for consideration.

Advise the SBE on Proposed Rules

Clarity on Multi-Tiered Systems of Support (MTSS) Implementation via Rulemaking

Implementation of multi-tiered systems of support has been required in Vermont education rule since the late 1990s. MTSS requirements are currently referenced in 16 V.S.A. § 2902 as well as the Education Quality Standards. Despite this, implementation of MTSS remains highly variable across the state. It is unclear if this variability is related to a lack of clarity in the Rules, or a lack of oversight and implementation support. The Advisory Group strongly recommends that the State Board contemplate the best way to provide increased clarity to Local Education Agencies (LEAs), whether through a

revision of the existing Education Quality Standards (that are currently open for revision), increased oversight, or another rulemaking mechanism. Without such additional guidance and resources, the Advisory Group believes the MTSS variability will continue to the detriment of students across the state.

Advise the Agency of Education and Supervisory Unions on Implementation

Professional Learning

It continues to be clear to the Group that continued inconsistent MTSS implementation will make it impossible to realize the positive intended impacts of Act 173. The Group reiterates its recommendation that the Agency develop a comprehensive plan that would:

1. Identify the evidence-based practices and framework for implementation.
2. Design a multi-disciplinary model for professional development that would be accessible to districts at all levels of implementation. The Agency must make clear that MTSS implementation is a full system obligation, not a special education obligation, and increase its targeted professional development for general educators (classroom teachers, principals, etc.).
3. Identify those districts that would need significant support in implementation so that professional development resources could be targeted. This method for identifying support should leverage current continuous improvement and quality review processes (e.g., Continuous Improvement Planning) and include a variety of funding sources to support LEAs.
4. Develop a clear mechanism for ongoing monitoring and support for MTSS implementation. This system should include a feedback method for families to be able to voice their concerns, especially regarding special education evaluation within the context of an MTSS.

Documentation of Maintenance of Effort (MOE)

Despite ongoing efforts of the Advisory Group to work with Agency staff on the development of flexible methods to document Federal Maintenance of Effort (MOE) requirements, the Agency continues to recommend highly restrictive documentation methods that would prevent districts from realizing the flexibility intended under the Act. It continues to be a firm recommendation of the Group that the Agency leadership be involved with ground-level staff to ensure that requirements are not developed that exceed Federal documentation standards.

Recommendations to General Assembly for Necessary Statutory Changes

Funding of Special Education Services at Independent Schools

Act 173 shifts Vermont's special education funding model from a reimbursement model to a census-based model. It did not, however, change how approved independent schools bill LEAs for the costs associated with providing special education services. Under the current language, LEAs receive a finite amount of state special education funding through the census grant. Independent schools, however, bill LEAs for the cost of providing special education services in an excess cost construct, which is an unchecked fee-for-service model. Independent schools are not capped in what they can bill an LEA, provided those costs are associated with the provision of special education services. This means that LEAs may be required to pay independent schools more than they receive in state special education support.

The Advisory Group recommends that the General Assembly examine the fiscal impact of Act 173 on districts that have non-operating grades. Specifically, the General Assembly should study the following in those districts:

- The total state special education support received
- The total excess costs billed to them from independent schools
- The impact of this different on the full budget of the LEA

Oversight and Implementation Monitoring

Over the course of its existence, Advisory Group recommendations have been consistent, particularly in the area of professional development. Despite this, the Group has not seen significant progress in moving those recommendations forward. This causes the Group to be concerned about ongoing implementation after it ceases to exist in its advisory capacity. The General Assembly needs to understand that additional accountability and oversight is needed for full implementation of Act 173.

Throughout its time together, the Group has continued to affirm that the educational structures of MTSS required under Act 173 are critical to improving outcomes for struggling students in Vermont.

Respectfully submitted on behalf of the advisory group by:
Meagan Roy, Ed.D.

Chair, Census-Based Funding Advisory Group

Hi Maureen:

Please post this comment with the October 3rd SBE public comments.

Jessica's connection was weak and much of her comments were lost.

I appreciate your help on this and

Thanks

Ted

My name is Jessica Meller, I am here to speak on behalf of the Jewish Communities of Vermont.

JCVT has consistently advocated during the Working Group's development process, and SBE's review process, for the Standards' definition of Ethnic Groups to be exactly as it appears in the ACT 1 law.

In ACT 1, Ethnic Groups intentionally includes part B, "groups that have been historically subject to persecution or genocide".

Vermont legislators included part (B) because they want Vermont K-12 students to learn about the cultures, contributions and struggles of groups, including Jews, who have been historically subjected to persecution and genocide. This aligns with the White House's National Strategy to Counter Antisemitism.

In May 2023, President Biden issued this first-in-US-history nationwide alert to "confront antisemitism in America with urgency" and "U.S. National Strategy To Counter Antisemitism" road map.

Here is a quote in it from President Biden:

"Through this National Strategy to Counter Antisemitism,... I am proud to lead my administration's efforts to counter Antisemitism, and I urge all Americans to join me... The venom and violence of Antisemitism will not be the story of our time."

A key focus of this strategy is President Biden's "whole-of-society" call to action which includes K-12 Departments of Education, County Offices of Education, and school districts providing "readily available quality educational resources:"

President Biden's National Strategy calls on you to include Jewish studies in ethnic studies and history curricula - Jewish history, as well as lessons on positive, valuable Jewish contributions to America's national story, Jewish diversity, and manifestations of contemporary antisemitism.

President Biden highlights the need for students to also learn about the United States and global histories of antisemitism, including the Holocaust, and "histories of antisemitism experienced by Sephardic and Mizrahi Jews—who trace their ancestry to Spain, the Middle East, and North Africa—and their stories of exclusion, persecution, and expulsion."

We at JCVT also believe genocides and persecutions should not be studied as stand-alone incidents in world history, but rather, explorations should include the history, culture, contributions, and resilience of the historically victimized groups.

To ensure that this happens, we again ask the SBE to revise the Education Quality Standards' definition of Ethnic Group so that it includes Act 1's part (B) as the legislature directed.

Thank you.

THE U.S. NATIONAL STRATEGY TO COUNTER ANTISEMITISM

MAY 2023



Through this U.S. National Strategy to Counter Antisemitism, we are taking a historic step forward. I am proud to lead my Administration's efforts to counter antisemitism, and I urge all Americans to join me in ensuring that in America, evil will not win. Hate will not prevail. The venom and violence of antisemitism will not be the story of our time. The power lies within each of us to transform that story. To rise together against hate. To show the world who we are. And to restore the soul of America together.

A handwritten signature in black ink, appearing to read "Joe Biden".

In May 2023, President Biden issued a first-in-US-history nationwide alert to "confront antisemitism in America with urgency" and "U.S. National Strategy To Counter Antisemitism" road map.

A key focus is President Biden's "whole-of-society" call to action which includes K-12 Departments of Education, County Offices of Education, and school districts providing "readily available quality educational resources:"

We call on state and local governments to include Jewish studies in ethnic studies and history curricula. Lessons should include Jewish history, as well as curricula on positive Jewish contributions to America, Jewish diversity, and manifestations of contemporary antisemitism.

More education [is needed] on Jewish American history and the valuable role that Jews have played in our national story.

President Biden highlights the need for students to also learn about the United States and global histories of antisemitism, including the Holocaust, and "histories of antisemitism experienced by Sephardic and Mizrahi Jews—who trace their ancestry to Spain, the Middle East, and North Africa—and their stories of exclusion, persecution, and expulsion."

President Biden, embracing the most prominent definition of antisemitism, the International Holocaust Remembrance Alliance (IHRA)'s working definition, reiterates the United State's "unshakable commitment to the State of Israel's right to exist, its legitimacy, and its security [and] recognize[s] and celebrate[s] the deep historical, religious, cultural, and other ties many American Jews and other Americans have to Israel." <https://www.whitehouse.gov/wp-content/uploads/2023/05/U.S.-National-Strategy-to-Counter-Antisemitism.pdf>

TO:
State Board of Education

FROM: Flor Diaz Smith, Incoming President, Vermont School Boards Association

RE:
Public Comments - Rule Series 2000 Proposed Changes

DATE: October 3, 2023

Good evening and thank you for the opportunity to comment on the proposed changes to the Education Quality Standards. My name is Flor Diaz Smith. I am the incoming President of the Vermont School Boards Association (VSBA). I am here today to provide public comments on behalf of the VSBA.

I am very familiar with the proposed changes to the Education Quality Standards because I served on a VSBA Committee that provided feedback to the Act 1 Working Group. Through that work, I can confidently say that VSBA supports the changes throughout the Education Quality Standards that focus on providing equitable, anti-racist, culturally responsive, anti-discriminatory and inclusive educational opportunities.

The proposed changes to the Education Quality Standards began with the work of the Act 1 Working Group – centering Vermonters from historically marginalized communities – to ensure education in our state is accessible and nurturing for all students. Their proposal to the State Board included a requirement that both public and approved independent schools should be subject to the updated standards. The State Board removed approved independent schools from the update - we disagree with that decision. If we are going to create the culture we want to see and preserve our democracy in our nation we have the moral obligation to make sure ALL schools are committed to creating inclusive educational opportunities that are relevant both historically and culturally, addressing the impacts of bias, prejudice and discrimination. Our commitment should be to the development of cultural humility and personal growth for all and preparing all students to participate effectively in an increasingly racially, culturally and socially diverse Vermont.

There are students attending approved independent schools whose tuition is paid by Vermont taxpayers. All students who receive a publicly funded education (whether they attend a public school or an approved independent school) should have the benefit of an education program that is equitable, anti-racist, culturally responsive, anti-discriminatory and inclusive. The best way to ensure that all publicly funded students receive this benefit is to have one set of rules that applies to all publicly funded students. The State Board's current approach of having two sets of rules is inequitable and confusing.

Thank you.

--

Flor Diaz Smith
She/ella why?

diazsmithSTUDIO

Washington Central Unified Union School District, Chair

VSBA Vice President /Central Vermont Region Representative

Building Bright Futures State Advisory Council Co-Chair

National School Board Association, Easter Region Representative

Thank you for inviting comments regarding The Educational Quality Standards

My name is Susan Leff and I am a Jewish resident of Burlington. I am the immediate past president of Temple Sinai in South Burlington where I remain on the board. I spent 10 years as the Executive Director of Hillel at the University of Vermont, and I have been a school teacher in the public schools earlier in my career.

I am here tonight to ask you to please include for the Standards' definition of Ethnic Groups in the Standards to be exactly as it appears in the ACT 1 law, including section B.

In ACT 1, Ethnic Groups intentionally includes part B, "groups that have been historically subject to persecution or genocide".

Vermont legislators included part (B) because they want Vermont K-12 students to learn about the cultures, contributions and struggles of groups, including Jews, who have been historically subjected to persecution and genocide. This aligns with the White House's recent, first in US history, National Strategy to Counter Antisemitism.

This is consistent with the "U.S. National Strategy to Counter Antisemitism " roadmap

A key focus is President Biden's "whole-of-society" call to action which includes K-12 Departments of Education, County Offices of Education, and school districts providing "readily available quality educational resources:"

QUOTE: "We call on state and local governments to include Jewish studies in ethnic studies and history curricula. Lessons should include Jewish history, as well as curricula on positive Jewish contributions to America, Jewish diversity, and manifestations of contemporary antisemitism.

More education [is needed] on Jewish American history and the valuable role that Jews have played in our national story. "

Antisemitism is alive and well in Vermont. I've experienced it as a member of the community and in my roles in the Jewish Community.

I am not here to ask that Jews be specifically included in the definition of Ethnic groups, only that the definition is broad enough, by including section B ,that we not be excluded. I took part in some of the working group discussions and there was sometimes an anti-Jewish bias in those discussions. Advocating for inclusion of Jewish history, culture and understanding resulted, sometimes, in equating Judaism and Zionism on the part of some participants. That worries me.

When my daughter as a 6th grader at Edmund's Middle School in Burlington, she was beat up by another student you screamed "You kike" while she did it. The school responded to the physical aggression but declined to treat it as antisemitism, saying that they thought that the other girl had no idea what that word meant. We also had a swastika carved into our door on South Willard St.

At Temple Sinai, under my tenure as President, we installed bullet proof film, new locks and a beefed up security system as well as steel and concrete barriers in front of the doors that go 8 feet into the ground. We did that at the urging of the Vermont State Police, among other advisors, as they worried about the safety of those inside the building.

At UVM, swastikas on doors and white boards were a common occurrence and comments and verbal micro-aggressions came from faculty and staff as well as other students. It's against the policy of the University to schedule exams or essential activities or field trips that can't be made up on the Jewish holidays of Rosh Hashanah and Yom Kippur. Every year, it was an issue, and I advocated for our students.

Vermont has the oldest Jewish community in New England. Jewish people often came as refugees, a precursor to our newer refugee populations. The early Lithuanian population settled in Vermont as merchants and businessmen and the descendants of that population are still an important component of our business community. Our Jewish population are proud Vermonters who have enriched the state with culture and heritage that should be taught in our schools as a part of our curriculum along with the contributions of other ethnic groups who also bring a rich heritage to our state.

TO:
State Board of Education

FROM: Neil Odell

RE:
Public Comments - Rule Series 2000 Proposed Changes

DATE: October 3, 2023

Thank you for the opportunity to comment on the proposed changes to the Education Quality Standards. My name is Neil Odell. I am a member of the Norwich School Board and I also serve as President of the Board of Directors of the Vermont School Boards Association. I am here today to provide public comments on behalf of the VSBA.

The VSBA supports the changes throughout the Education Quality Standards that focus on providing equitable, anti-racist, culturally responsive, anti-discriminatory and inclusive educational opportunities for all students. These are important changes for the future of Vermont's students and, as the Act 1 Working Group recommended, should be applicable to all publicly funded students in Vermont whether they attend a public or a private school.

I have struggled to understand the State Board's decision to exempt private schools from the proposed Education Quality Standards. All of Vermont's publicly funded students deserve the same equitable, anti-racist, culturally responsive, anti-discriminatory and inclusive education experience. At best, this was an oversight - one easily remedied by creating a single set of standards applicable to all publicly funded students. At worst, it creates a separate and unequal system that sets a lower bar for the instruction of Vermont students attending private schools with public funds. Even if the Board created two identical sets of standards, that action would explicitly create an environment that encourages future divergence and sends a message to students that those attending private schools are considered different and not worthy of the same quality of education provided to their peers in public school.

The VSBA strongly encourages the State Board to adopt a single set of standards that would apply to all of Vermont's publicly funded students.

Thank you,
Neil Odell
Norwich School Board
President, Vermont School Boards Association

Public Comment for October 3, 2023:

Hi I'm Aaron Kindsvatter with the Foundation Against Intolerance and Racism (FAIR), a national nonpartisan, nonprofit organization dedicated to advancing civil rights and liberties, and promoting a common culture based on fairness, understanding, and humanity. We have nearly 100 chapters and tens of thousands of members nationwide, including in Vermont.

Last year FAIR commented on the draft Education Quality Standards (EQS) during the Vermont State Board of Education's subcommittee meeting and in writing, sharing our concern that the EQS's term "critical" is ambiguous.

While the State Board subcommittee modified the standards by adding a definition of "critical thinking" -- which FAIR appreciates -- the subcommittee kept the word "critical" without the qualifier "thinking" in three spots so the ambiguity remains. Specifically, three draft EQS sections before you call for "critical examination." The word "critical" here could either (i) refer to conducting a thorough and scrutinizing examination, or (ii) be construed (or misconstrued) as requiring a critical race theory (CRT) informed analysis.

If the latter -- "critical race theory" -- the EQS will require every Vermont teacher to instruct their students to embrace CRT, which means look at ethnic groups through personal narratives rather than facts, focusing on race and "domination and oppression" rather than also as individuals and their contributions and successes. (See "Critical Theory," Stanford Encyclopedia of Philosophy).

State Board Members Gleason, Kolbe, and Lovett were clear Summer 2022 that CRT is NOT what they desired.

But again if the EQS wording is left unchanged, CRT is how teachers will read the EQS because the rest of the standards say to "focus on [ethnic groups] systemic oppression" and use race as the "lens" -- mirroring the language of critical race theory.

This ambiguity has already opened the door for CRT. The EQS Working Group's recommended draft Ethnic Studies Frameworks, that cite the EQS's "critical examination" clause, are riddled with critical theory and CRT. For example, 15 of the Frameworks' recommended teacher resources are grounded in and promote critical theory and CRT such as "The Art of Critical Pedagogy," "Coloring in White Spaces," and two resources on the highly controversial liberation and critical theorist Paulo Freire's "critical," as in critical theory, consciousness.

To avoid this outcome -- and so have the EQS reflect the SBE subcommittee's intent -- FAIR encourages the Board simply to remove the term "critical" in the three places its appears in these two EQS sections (Sections 2110 and 2114).

Thank you.

TO: Vermont State Board of Education
FROM: Adrienne Raymond
RE: Public Comments - Rule Series 2000 Proposed Changes
DATE: October 3, 2023

My name is Adrienne Raymond and I am a recently retired schoolboard member. I've served on behalf of my community, the Town of Shrewsbury, on multiple school boards at every level for over 20yrs and was a member of the Act 46 merger committee that created the Mill River Unified Union School District. I am finishing up a last term on the Vermont School Boards Association Board of Directors this month. I currently serve as a Vermont Employer Healthcare Commissioner. Putting all of that aside, this evening I speak as an interested, private citizen.

Thank you for the opportunity to voice my general support for the Vermont Education Quality Standards that are currently under review by this board.

I support the adoption of these Quality Standards because they create clear expectations and requirements for schools that are held to these rules. The Standards support and require equitable, anti-racist, culturally responsive, and anti-discriminatory educational opportunities that are inclusive and accessible for every Vermont student. I believe that Vermont needs statewide Quality Standards to ensure that all of Vermont's students are being offered an equitable education in every publicly funded school in the State of Vermont.

This brings me to my "general" support of the proposed Standards changes. I cannot fully support adopting Standards that should be helping to create equitable systems throughout the State of Vermont, but will not be doing so, because they will not be applied to every publicly funded school. Vermont has created a 2-tiered educational system and these standards would have helped to decrease the systemic disparity, but they won't, if they aren't applied to all. Please support the Quality Standards and then apply them to all publicly funded schools.

Thank you for your attention.

Submitted by
Adrienne Raymond
802-353-0973

Thank you to all who have worked to create Act 1, discussion and consideration.

I am a member and educator at Beth Jacob and JCOGS. I am an occupational therapist, consultant to educate teachers, and a parent of an elementary school student at UES in Montpelier.

Please include part B. We need to include education of all people with histories of genocide, including anti-semitism. Education of teachers and students is where we must begin to end hate crimes.

Sincerely,

Debra Ann Pinsof-DePillis, MA, MS OTR/L
15 Ewing Street
Montpelier, VT 05602

"The only way to make sense out of change is to plunge into it, move with it, and join the dance."

~ Alan Watts

I come here today directly from listening to Dara Horn, author of "People Love Dead Jews," talking at Keene State University on "Jews in a Non-Jewish World." Horn's most pressing point about Holocaust education is that it leaves behind Jewish culture at 1945. Vermont has had Jewish connections since its founding -- Alexander Harvey and his crew, choosing land to settle on in Barnet VT, took a break to travel and worshipped with Jews, according to his journal, and one of Lyndon's most prosperous businesses in the late 1800s and early 1900s was owned by the Stern family, who sent away to New York City for a rabbi to arrive by train when their daughter was ready to marry. Such historic details are rarely raised in Vermont today. (I may be one of the few authors to do the research and bring them up.)

More critically, most of the Vermonters I meet outside Burlington have not knowingly met a Jew. This is in part because even Vermont Jews have learned to hush themselves. My late husband Dave Kanell, a 40-year synagogue leader, would not place a menorah in the windowsill (a tradition) because he understood that it was dangerous to become a target for antisemitism. For several of my neighbors now, I am the only Jew they've met; there are four Jews in Waterford, and the other three decline to publicly self-identify at most times. This enduring lack of community awareness feeds the contagious disorder of antisemitism. Please raise awareness in school curricula, among educators, and among our communities that Jews are an important part of Vermont, and their history -- and current culture -- are valuable to our children and adults.

Thank you.

Beth Kanell
Waterford, VT
BethPoet@gmail.com

the research and writing life: bethkanell.blogspot.com

My name is Seth Riemer; I'm the rabbi at Congregation Beth El in Bennington. One incident from my childhood illustrates succinctly the persistent fact that educational systems in this nation treat with disrespect Jewish students' religion and ethnicity. Shortly before Christmas vacation, my 8th grade teacher decided, for a treat, to have everyone in the class draw a picture of Santa Claus. Being a dutiful student but also a religiously observant Jew, I felt uncomfortable; to say that I felt marginalized and was, in fact, invisible would be understatement. On the one hand, I saw all the other students, without missing a beat, get out their crayons and paper and begin drawing. I glanced over to the two or three other Jewish students and noticed that they were going along with the exercise and showing no concern at all about complying with the teacher's instruction. So, fumblingly, awkwardly, nervously, I began to sketch, figuring that I had better go along or look like a fool in everybody's eyes and maybe get in trouble too. Then, one of my classmates (I can't remember if this was a Jewish or non-Jewish person), noticing my extreme discomfort, called it to the attention of the teacher, who immediately came over and, speaking with me quietly, his tone soothing, his manner sensitive, invited me to do something Hanukah-related. Perhaps he suggested I make a picture of a menorah - the candelabrum central to Hanukah tradition. So I did as my teacher proposed. While his condescending gesture relieved me and calmed me down slightly, it did not dispel my sense of unease. Having been temporarily rescued from having to violate my religious convictions, I was sinking into a deeper sense of malaise. I felt, but was not yet mature enough to understand, that something was wrong with this picture. Only years later did I come to realize just how egregious - how insulting and utterly unacceptable - that entire situation had been. Instead of completely erasing my cultural identity, the system in place then - and still in place now - had thrown me a bone, allowing my Jewishness to be conveniently tagged onto an existing norm that basically does not recognize my history, values and practices. The tokenism of the teacher's gesture - absurdly equating a minor Jewish festival with a preeminent Christian holy day (which is also an official national holiday!) - thus, to inflate the importance of Hanukah, not out of respect for Jews and Judaism but to assuage Christians' guilty consciences about their dominant social status in this society - was due not only to his ignorance but to the careless disregard that entire educational system showed for Jewish students. We, here in this time and place, have to do better. Thank you.

To: Chair Jenny Samuelson and members of the VT State Board of Education
From: Amanda Garces and Mark Hage
Date: Oct 3, 2023
Re: Public comment: Rule 2000 – Inclusivity

As former co-chairs of the Act 1 Working Group, whose statutory mandate ended on August 31, 2013, we feel compelled to address the objections raised by individuals affiliated with Jewish Communities of Vermont (JCVT) in their e-mail with an attached letter to the State Board of Education on August 13, 2023.

First, we respectively want to draw your attention to the comprehensive document we provided to the State Board in 2022 explaining the reasons behind the definition of “Ethnic Group” in the EQS Manual, which was unanimously approved by the Working Group. This document, [available here](#), presents our extensive research and thinking on this matter. It is important to note that this definition underwent further modification in consultation with the State Board’s EQS Subcommittee and it, too, was endorsed without dissent by the Working Group.

With respect to the criticism levelled against Community Responsive Education (CRE), we want to emphasize that the CRE team of consultants was chosen through a thorough application process in strict conformance with the Agency of Education’s selection criteria and was conducted collectively by the Working Group. CRE’s references of educators employed in the California public school system highlighted their professionalism, expertise in Ethnic Studies, and collaborative style of engagement with teachers, administrators, students, and community members. CRE’s team worked diligently with our research and writing team, and actively engaged with the broader community of Working Group members and others on a very compressed timeline (January to July). If you require further insight from other Working Group members or the writing team about our collaboration with CRE, please let us know.

Lastly, we are perplexed by JCVT’s charge that Jewish students and families in Vermont will not be well served by the revised EQS Manual or our Standards Framework. Nothing within the revised manual or proposed Standards Framework justifies this accusation. During our deliberations, start to finish, there was a steadfast commitment to inclusivity and sensitivity to concerns raised by individual Jewish Vermonters and JCVT representatives.

Furthermore, in June, 2022, we responded comprehensively to critical and inflammatory statements made by Yoram Samets on behalf of JCVT. Our letter, which you [will find here](#), underscores the respectful and open dialogue that has always characterized our interactions with JCVT and other stakeholders, including the Anti-Defamation League. Here are excerpts from that letter:

JCVT and you were shown the utmost respect, like every other individual or organization. You attended several Working Group meetings, Mr. Samets, and often chose not to speak at them. Respectfully, you had the same opportunity to inform and shape the deliberations and thinking of the Working Group as every other member of the public. You will recall, for example, our meeting on March 17, 2022, when you, a New England representative of the Anti-Defamation League, other Vermonters who are Jewish but, to the best of our knowledge, not affiliated with JCVT, and Asma Elhuni, a member of the Working Group, exchanged opposing views on matters of interest to JCVT and others. This was a thoughtful and civil conversation, and it was facilitated to ensure that all voices, including yours, could be heard.

We also note that in a March 10th letter the Anti-Defamation League commended the Working Group for how it conducted its public proceedings. ADL said: "Our staff members have observed many of the Working Group's public meetings, and we would like to express our appreciation for your group's commitment to implementing a sound ethnic studies framework in Vermont and navigating the many comments and concerns raised by the public.

Lastly, it's important to clarify that our primary task **was to draft standards, not curriculum**. Our definitions and work more broadly were, among other concerns, for the purpose of empowering school districts to teach about and celebrate the multi-faceted richness and contributions of Vermont's many diverse communities, while facilitating a rigorous and critical examination of historical injustices and crimes against humanity, including, but not limited to, genocide, slavery, and eugenics. It's also worth calling attention to the fact that definitions in the EQS Manual already explicitly reference genocide and persecution and speak to the many criteria that define the concept of ethnicity, including religion, culture, and nationality.

Here are the definitions of "Ethnic Group," "Ethnic Studies" and "Ethnicity" in the final draft:

"Ethnic Group" means a group whose members identify with each other based on certain criteria, including a common history, ancestry or culture, religion, nationality, social or geographic origin, skin color, language, and experiences of discrimination and social exclusion, persecution, or other inhuman treatment.

"Ethnic Studies" means interdisciplinary, age-appropriate, and grade-appropriate curricula and programs dedicated to the historical and contemporary study of race, ethnicity, and indigenous peoples (including the Indigenous People of Vermont). This requires a critical examination of the experiences and perspectives of racial and ethnic groups and indigenous peoples that have suffered systemic oppression, marginalization, discrimination, persecution, and genocide within and outside the United States. "Ethnic Studies" may involve a critical examination of these experiences and perspectives through the lens of the characteristics of social identity groups.

"Ethnicity" means a concept that embodies a wide range of criteria used to identify ethnic groups, such as a common history, ancestry, or culture, national, social or geographic origin, skin color, languages, religions, tribe, or indigenous people (including the Indigenous Peoples of Vermont), or various combinations of these characteristics.

We trust that this letter, along with the documents linked to here that are in the public record, put to rest the unfounded charges and misrepresentations directed at the Working Group in JCVT's August 13th communications. However, if you require additional information or clarification, please do not hesitate to contact us.

Thank you for your work.

Sincerely,

Amanda Garces and Mark Hage

Cc: Act.1 Working Group

Hello,

I am writing to urge you to include antisemitism and Jews as an ethnic group in the Vermont curriculum and Vermont State Education Quality Standards. It has come to my attention that The Agency drafting the Rules has sought to eliminate Section B of the definition of ethnic groups, thus eliminating the Jewish people from definition of Ethnic Groups.

Just last week, in the Hartford Vermont School District, both of my kids experienced incidents of anti semitism during school hours and on school property. One of the incidents was a high school student yelling out "I hate Jews" in the classroom.. The individual was sent to the principal's office, and I am unaware of what other consequences occurred or if this was used as a learning opportunity. My other child in the elementary school experienced being singled out for being Jewish by another student in front of peers, and the school counselor was able to work with the students to be compassionate about differences and qualify what racism is and isn't, the counselor also called me personally to relay what happened and how she handled it as a learning opportunity. It is very important for our Vermont educators to have the tools they need to help them combat anti semitism and racism in all of its forms as it is definitely a rising issue in America and is affecting our children, "even in Vermont."

Thank you,
Ariel Cahn-Flores
Hartford, Vermont

To: Chair Jenny Samuelson and members of the VT State Board of Education
From: Rebecca Holcombe, current state representative, former VT secretary of education
Date: Oct 3, 2023
Re: Public comment: the state board must ensure equitable opportunity in private schools funded by vouchers from the public education fund

Thank you for giving your time to serve the state of Vermont and our children. I know you care about the state and its children, or you would not give of your time this way.

As you reopen the 2000 series (and subsequently, the connected 2200 series), I am writing to respectfully request the state board of education to:

1. apply all the same education quality rules and standards to both public schools and to private schools that are paid tuition vouchers that are funded by the public education fund
2. require open enrollment in any private school that receives funding from the public education fund.
3. require publication of the same performance data for taxpayer-funded private schools that is published for public schools, including assessment scores, and
4. ensure state rules comply with federal law.

As the state board has learned, the 2000 series is linked to the 2200 series, so one cannot be treated without consideration of the other. Of immediate concern: the rules as proposed are out of compliance with federal and state law. Moreover, they fail to protect the right of publicly-funded students in private schools to equitable education opportunities.

A. **The state board must comply with federal law for students with disabilities, and the proposed rules do not.** Federal regulations related to implementation of the federal Individuals with Disabilities Education Act (IDEA) require that **students with disabilities that Local Education Agencies (LEAs) place in private schools must have access to the same standards of education that those students would have in a public school.** 34 CFR 300.146 requires the state educational agency (SEA) to ensure each child with a disability placed in or referred to a private school "is provided an education that meets the standards that apply to education provided by the SEA and LEAs." The state agency cannot do this if the state board rules set a lower standard for private schools as it currently does. As the state board, you are required by Vermont law to implement and continually update the standards for student performance and methods of assessment, and "The standards shall be rigorous, challenging, and designed to prepare students to participate in and contribute to the democratic process and to compete in the global

marketplace." 16 VSA 164(9). Allowing separate and lesser standards for private schools means students with disabilities who are placed in these private schools by their LEAs will not have access to the equitable opportunities to which they are entitled under federal law.

B. **The Vermont Constitution requires that the rules approved by the state board for voucher-funded private schools must be the same as the rules for public schools.** The rules you are now considering are an effectuation of statute. However, statute is an effectuation of our Vermont constitution. Article seven of our Vermont Constitution states "That government is, or ought to be, instituted for the **common benefit**, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single person, family, or set of persons, who are a part only of that community." As defined by the Brigham case, public education is instituted for the common benefit of all of us, and public education dollars should not be used for the particular advantage of any set of people who are a part only of our communities. Allowing any private school to receive tax dollars from the public education fund is simply a means to the end of equal public education. These public education tax dollars cannot be used for private purposes. Approving separate and unequal rules for taxpayer-funded private schools is a violation of this constitutional command.

C. **Since the 80's, the state board raised standards for public schools, but left students in voucher-private schools behind, under separate and lower standards.** This denies students in those private schools of equitable opportunity.

Vermont did not always have such separate and unequal standards for taxpayer-funded private and public schools. For example, in 1982, 16 V.S.A. § 906 was amended to read:

§ 906. COURSE OF STUDY

(a) In public schools, approved and reporting private schools and in home study programs, learning experiences shall be provided for pupils in the minimum course of study.

(b) For purposes of this title, the minimum course of study means learning experiences adapted to a pupil's age and ability in the fields of:

- (1) Basic communication skills, including reading, writing, and the use of numbers;
- (2) Citizenship, history, and government in Vermont and the United States;
- (3) Physical education and principles of health including the effects of tobacco, alcoholic drinks, and drugs on the human system and on society;

- (4) English, American and other literature; and
- (5) The natural sciences.

Note that at this time, the same standards were applied to all taxpayer-funded schools, both public and private. Please note also that the “minimum course of study” lacks references to outcomes related to technology, physical and data sciences, global studies, sex education, and 21st century skills. **A minimum course of study is not aspirational nor transformational; it is a floor. We need to raise the floor to raise performance.**

Since that time, on numerous occasions, the State Board of Education raised the bar for public schools by imposing more expansive standards for them. However, **it left students in private schools behind, including in settings with outdated and lower minimum expectations and no transparency,** as well as no clear right to due process for students (as opposed to schools) and fewer constitutional protections.

Same dollars, same rules used to be expected. It should be again, to protect children in these private settings, just as we do in public settings.

D. A lower, outdated, separate, and unequal standard for taxpayer-funded private schools disadvantages all students in these schools and undermines civic unity.

All the public school standards the state board has adopted over the years, all the emphasis on preparing youth for both civic and economic life: these are not just good ideas and worthy goals for our students. **They also are binding mandates for all students in schools funded by our public education fund, because our constitution requires equitable education opportunities for all students, including in the taxpayer-funded private settings the state allows to be maintained as an alternative to public schools in every town.**

Although standards for public schools have been raised and modernized, a dated “minimum course of studies” remains the standard (albeit a low one) for private schools that are funded by public education dollars in Vermont. This separate and unequal lower standard for private schools raises questions about whether students in those schools have access to the same rich, future-oriented and civic sets of experiences to which students in public schools are entitled. Consider:

1. Some schools choose to not teach a rich and representative history, in one case because—as the head of school said—their students are “mostly white.” This deprives students of the opportunity to learn about the richness and breadth of the

American experience, or even about how racism and antisemitism have been exploited to preserve advantage. Given this, how will students learn to live constructively in the more diverse communities of our future, or in a pluralist democracy?

2. How can children be prepared for a future in which comfort with math and science are highly valued, when private schools are not required to provide access to advanced math or physical science?
3. What is the long-term consequence, especially in more rural areas with lower population density, of allowing families to divert public education dollars to private schools that teach that: “God created the heavens and the earth in six literal days” or that “reject the man-made theory of evolution occurring over millions of years?” How does this not drive fragmentation and segregation based on religious identity?¹
4. What is the consequence of diversion of precious public education dollars, as we currently do, to schools that teach that “God created man and woman in His own image, and instituted marriage between one biological man and one biological woman (Gen. 2:18-24)” or that equate “homosexuality” and “bisexuality” to crimes like incest and bestiality? What is the consequence of public education dollars being used to promote one faith practice while denigrating another? What is the consequence of a system that allows diversion of public tax dollars to private schools that use a curriculum that suggests slavery is not so bad if it brought people to religion, as one popular curriculum does? **The consequences are not benign. These practices foster fear, hatred and violence against people who are entitled to dignity and protection under the Vermont constitution.**
5. How can children be prepared to collaborate in civic life when they are educated in private schools that make statements or require signing of pledges that are openly hostile or censorious towards entire groups of children, whether they are children with disabilities, children of other faiths, or people of a certain gender?
6. How can parents know if kids are prepared for college and careers, let alone civic life, if there is **no public data** on the performance of students in the private school their child attends?

E. Given the lack of transparency for voucher-funded private schools, parents, communities and the state have no way of evaluating whether students are receiving education that is comparable to that provided by public schools.

¹ It goes without saying that this is also unaffordable, because it compels taxpayers across the state to support more small schools at higher per pupil cost, to ensure kids have access to a school.

In addition to concerns about what students learn under the lower standards applied to private schools, taxpayers have no way of knowing how well they are learning in these environments. By law, these private schools are required to have voucher-funded students take the same tests administered to students in public schools. However, none of this data is public. When you look at the data snapshots on the VT Agency of Education website, you'll find data on multiple aspects of school quality for every public school in the state. However, **there is no information available at all for students enrolled at taxpayer expense in private schools,** even at the district level.

The last time private school data was available, the performance of the four historical academies on average was almost identical to the overall scores for all students. This was true despite the use by some of these academies of admissions procedures that in national research have been demonstrated to suppress enrollment of less-advantaged students, including economically disadvantaged students and students with disabilities.

No data is currently available for smaller voucher-funded private schools. **Despite numerous records requests of the AOE, some dating back to last winter, legislative colleagues have been unable to obtain data related to student performance in private schools.** I would be happy to share these requests with you.

However, I do have access to assessment data from prior to 2015 for the four biggest private academies- the historical academies. Three of these historical academies were incorporated by the legislature for the purpose of public education. Data for the historical academies that are now public schools are public. Data for the four historical academies used to be public. These data below are for Thetford Academy, Lyndon Institute, St. Johnsbury Academy and Burr and Burton. These data suggest the same variability we see in public schools also exists in independent schools that are funded by taxpayers. Other data I have seen suggests that performance in the smaller private schools is weaker on average than at the larger academies, something interested parties have been unable to explore because the AOE has not made this data available in response to requests.

For this table below, created in 2015, the AOE converted scores on the Smarter Balanced assessment to "z scores," which measure how much the average score on a given test in a given school varies from the average score for schools overall. This conversion gives us a way to compare across schools with different grade levels in terms of how they score compared to schools on average. Two of the historical academies scored above average and two scored below average for schools overall. As a group, their scores were basically identical to the average scores for the state overall.

School	Z score average (negative is below average, positive is above average)	Z score ranking (out of 269, higher = higher scoring)
Lyndon Institute	-0.59	55
Burr And Burton Academy	-0.23	109
Thetford Academy	0.44	174
St. Johnsbury Academy	0.60	193

Again, at present, test scores for taxpayer-funded students in private schools are **not available**. And, the scores of the private sector as a whole, separate from the public sector overall, have never been publicly reported. **This means taxpayers have no evidence to speak to the outcomes of students in taxpayer-funded private schools.** National data suggest that once researchers control for demographics, private schools underperform relative to public schools. Taxpayers have a right to know if that is true in Vermont as well.

F. The potential harm caused by lower standards for taxpayer-funded private schools outweighs any hypothetical risk of expecting them to provide an education that meets public education standards at a minimum.

Lobbyists and others have argued that requiring private schools that get public education dollars to follow public school rules would destroy those schools.

I am the elected state representative from Windsor-Orange 2, a district that is home to the only two private independent schools in the state that have committed to meeting Vermont's education quality standards. One of these schools, Thetford Academy, is the only private school in the state that has consistently committed to a public mission— to a role in lifting up the **entire community of children**, and not just some children— and it has done so while following public school rules and embracing open enrollment. As seen in the data above, it held true to this mission while posting above average results. It succeeded in doing so without excluding students and while embracing the challenge of providing a robust and representative curriculum, as do public schools. It did this while serving a disproportionate number of students with disabilities from neighboring towns, as many public schools do. Thetford Academy is proof that requiring taxpayer-funded private schools to follow the same rules and to be open-enrollment does not represent a threat to these schools. Thetford Academy is proof that private schools can be inclusive and still be excellent. In fact, **requiring other private schools to meet higher**

standards, practice open enrollment, and provide greater transparency would likely increase the quality of the private programs these schools offer at taxpayer expense.

At the most basic level, data on performance in private schools must be transparent. Public budgets are available for public review and vote, and all public school performance data is presented online in AOE data portals, alongside demographic information on students. **All schools that are ostensibly “meeting EQS” must have their performance data published through the same reporting systems as public schools.** This is how we can attempt to ensure that students in voucher-funded private schools have access to the same quality of opportunity as students in public schools.

F. Any system that uses public education dollars to fund private schools that cull students they don’t want to serve is inherently unjust, and harms both students and inclusive schools on which most students depend.

A system that makes parents pay education property tax for private schools their children would not be allowed to attend is unjust. Taxpayer-funded private schools must also practice open enrollment. **So long as private schools choose their students using tools like test scores, grades, faith pledges, discipline records, mental health records, and interviews, they are curating enrollment – culling students and families they see as undesirable – in ways that are inconsistent with the Education Quality Standards and the state’s constitutional commitment to giving every child a fair chance.**

Students who “aren’t a good fit” because of political views, demeanor, disruption, lower grades or test scores, inability to pay additional fees, pregnancy, discipline, and so on can be excluded, even if these characteristics are correlated with eligibility for IEPs, religion, socioeconomic status or race. Even the existence of admissions devices like these has been proven to segregate students in a community, including based on wealth, race, identity and religion, and depriving our state’s children of equal access and opportunities to build the habits of democratic citizenship. As I mentioned in previous public comment to the state board, this is why California prohibits charter schools from requesting information other than name and contact information prior to enrollment. Requesting more has been shown to suppress enrollment of marginalized students.

By permitting voucher-based sorting and culling, the State Board enables social and economic sorting and polarization. It fosters a parallel set of publicly-funded but unaccountable private institutions that undermine shared opportunity and a shared future. This segregation is particularly dangerous to the goals of giving everyone a fair chance and affordability in rural states like Vermont, because most Vermont communities do not have enough students to support more than one robust school at an affordable cost.

The lack of rules abets creation of local, private monopolies that may or may not serve a public purpose.

Data cleaned a few years ago by then Dep. Sec. Bouchey found that while 49% of students in tuition voucher towns attend public schools, 59% of students who are economically disadvantaged in these towns attend public schools, and 69% of students with disabilities in these towns are placed in public schools. This suggests that some **voucher towns depend on public schools operated by nearby towns to serve a disproportionate number of their disadvantaged students, while diverting tax dollars and advantaged students to private settings.**

As one proponent of vouchers told me a few weeks ago, “why should my kid have to go to school with those kids?” Our failure to require open enrollment means we will gut the public or inclusive schools on which the majority of Vermont children depend to fund private schools for people who don’t want their kids going to school with “those kids,” whomever those kids may be. Instead of fostering community, we are incentivizing people to opt out on common cause with their neighbors.

Given that district funding is now weighted to support students who are disadvantaged but tuition vouchers are not, Bouchey’s statistics above also suggest that our voucher system effectively overfunds private schools relative to public schools. Raising standards for private schools and requiring open enrollment would be a small step towards rectifying this injustice.

G. Vermont’s failure of expectation

To understand our current failure of expectation for taxpayer-funded private schools, consider the inverse. If these rules are truly so devastating to private schools that take public education dollars, why do we apply them to public schools? Why did some of the same people who now argue so vociferously to have private schools exempted from standards also work so hard to develop and apply these same rules and standards to public schools? What if we in the legislature said that “same dollars, same rules” should mean that public schools only have to follow the rules that apply to private schools? What if the state board decided that because the education quality standards are too onerous to impose on private schools, we should not impose them on public schools either? What would be the consequence?

Anyone who advocates for tight rules on public schools but lesser regulation on private schools that receive vouchers from the public education fund is enabling,

wittingly or unwittingly, overt regulatory capture to protect a private benefit at taxpayer expense. In contrast, public education is a public good.

In its decision in *Brown v. Board of Education*, the US Supreme Court concluded that denying student entry to the publicly-funded schools other students attend, because they are Black, “generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.” In Vermont, because of those who would turn public education into a private benefit, we now fund private schools that are openly homophobic and transphobic, which have refused to hire staff who they know are gay or lesbian, and who have suggested to the legislature that they should not have to teach a representative curriculum because their students are mostly “white,” as if racism has not played a role in preserving economic advantage throughout our history. We fund schools that reject students using tools and measures that are closely correlated with socioeconomic and disability status. We fund out-of-state private schools that don’t serve any students with disabilities or provide civil rights protections to LGTBQ students. We fund an in-state private school that went to court to assert its right to reject students with disabilities, based on “standards” set by the school, even when students were previously and successfully educated alongside peers of the same age. We fund another private school that said the reason it did not previously provide disability services is that it is a college-prep program, as if having a disability means college is not in your future. In all these cases, our tax dollars are being used to send a powerful message about who these schools feel are inferior— a message that affects hearts and minds in ways that are difficult to undo. These voucher-funded private schools can do these harms because they are not held to the same standard as public schools.

Some of the work ahead belongs to the legislature, but some of it belongs to the state board of education, which must protect our shared public interest and the value and rights of all Vermont children, and not just narrow private interests.

The state board should not set standards that are inconsistent with the rights of students with disabilities. And, no private school should receive public education dollars unless it commits to open enrollment, conforms to the same education quality standards that apply to public schools, embraces a truly public mission, and has fully transparent data as do public schools.

Testimony for Oct. 3, 2023 Public Hearing: Rule Series 2000 – Education Quality Standards

My name is Debra Stoleroff. I am a newly retired teacher. I founded and directed the Renaissance Program (Twinfield's personalized learning program) for the last 24 years. Prior to that I was an elementary teacher.

Equity in education has been the focus of my entire teaching career. In the early 90s I was asked to help write the Vital Results of the Vermont Framework of Standards and Learning Opportunities. I then became a teacher leader for the Vermont Institute for Science, Math and Technology with a focus on equity. I've led the multiple iterations of equity focused professional committees at Twinfield and helped lead the design of our proficiency-based graduation system. I started the Renaissance Program to provide a path to graduation for one bright, creative, learning disabled student who was ready to drop out of school because she was bored and unengaged. *

Creating personalized learning experiences is an option for all Twinfield high school students. Since 1999 the program has met the needs 70% of Twinfield students. For many, having the opportunity to create an experience based on their interest, learning style and life experiences proved to be a lifeline to their success in school and their postsecondary life. Updated EQS standards will foster personalization in and out of classrooms. In turn, updating the EQS standards will improve education opportunities for students living in poverty; students who have experienced trauma; disabled students; students of all ethnic and racial groups as well as students who face challenges regarding their gender identity and sexual orientation. Having the most inclusive Education Quality Standards that better serve all students is of utmost importance. Every Vermont student, indeed every student in the US deserves education opportunities that allow them, indeed, compel them to exert the effort necessary to attain high levels of rigor and understanding. Not providing the most equitable education opportunities does a disservice to the future of Vermont and our society.

I ask the VT State Board of Education to support the implementation of the recommended EQS changes as proposed by the diverse and representative Act 1 Working Group.

I thank the Board Chair and Board Members for the opportunity to be heard.

Sincerely,

Debra Stoleroff

Plainfield, Vermont

* That bright, creative, learning disabled student who hated school and for whom we created an equitable path to graduation is now a Literacy Interventionist in the public school system of Holyoke, MA.

From: Jamilah Vogel <jamilah.vogel@colchestersd.org>

Sent: Monday, October 2, 2023 10:23 AM

To: Fearon, Grey <Grey.Fearon@partner.vermont.gov>; Diop, Mohamed <Mohamed.Diop@vermont.gov>; Gleason, Kimberly G <Kimberly.G.Gleason@vermont.gov>; Kolbe, Tammy <Tammy.Kolbe@vermont.gov>; Jepson, Lyle <Lyle.Jepson@vermont.gov>; O'Farrell, Jennifer <Jennifer.OFarrell@vermont.gov>; Samuelson, Jennifer <Jennifer.Samuelson@vermont.gov>; Werner, Richard <Richard.Werner@vermont.gov>; Wilburn, Aaliyah <Aaliyah.Wilburn@partner.vermont.gov>; Bouchey, Heather <Heather.Bouchey@vermont.gov>

Subject: Public Comment EQS

Hello and thank you for the work you are doing to ensure quality and inclusive education for students all over Vermont.

My name is Jamilah Vogel and I work as a Diversity, Equity and Inclusion Coordinator for the Colchester School District. I am writing today in support of the changes to the EQS and I fully stand behind the current draft that reflects the incredible work of the Act 1 working group. The changes to the EQS demonstrate Vermont's ongoing commitment to ALL students and to substantively address current and long standing disparities.

I also know that schools that are engaging deeply in equity are under pressure due to misinformation that is causing some people to be afraid of DEI efforts. The state now has the opportunity to stand behind schools and support our commitment to creating learning environments where students can feel belonging, are challenged, and will thrive. I hope that these changes will be approved and that schools will be supported to meet the standards that are represented within.

Thank you for your consideration of my public testimony,

--

Jamilah Freya Vogel

she/her

Diversity, Equity and Inclusion (DEI) Coordinator

Colchester School District

802-264-5993

"We but mirror the world. All the tendencies present in the outer world are to be found in the world of our body. If we could change ourselves, the tendencies in the world would also change... We need not wait to see what others do." – Mahatma Gandhi

Unfortunately I am not able to attend the Oct. 3 meeting; I would like to express some of my views.

I retired two years ago from my position at Temple Sinai where I served as Education Director for 23 years. You would think that educated people such as school principals, superintendents, teachers, etc. would be mindful of and know about certain religious days even if it is not their religion.

We Jews recently celebrated Yom Kippur, the holiest day of the year for Jewish people. And yet, I still hear from parents, as I did EVERY year when I worked at Temple Sinai, that schools are holding picture day, field trips, sports team try-outs, play try-outs, etc. on that day. It is difficult enough for a child to be in the minority, and yet now they need to stand out even more by telling their parents they do not want to attend synagogue because they do not want to miss out. I find it very insensitive when a parent is told (as has happened NUMEROUS times over the years), "Your child can have his picture taken on make-up day" or worse, "How were we supposed to know?"

Why is it that IED includes every group except Jews?

In my capacity as Education Director I was invited to numerous schools around Vermont to talk about Judaism, its beliefs, practices, and history. The level of ignorance is astonishing.-- and not just among the students, but the teachers too. In one high school history class in which the students were learning about European history in the 14th, 15th & 16th centuries I asked what they knew about the Inquisition. Not a single hand went up. I asked the teacher if that was going to be taught. She replied that it wasn't part of the curriculum. One quarter of the Spanish population at the time was being forced to convert to Catholicism or face expulsion or death and this is not part of the curriculum? When this same topic came up in an adult education class I taught at the Temple one very nice Christian man was flabbergasted. He said, "I can't believe it! Didn't anyone do anything to stop this?" The Jews in the class rolled our collective eyes. And the answer was no, no one did anything to stop this.

I was in a Middle School several years ago and I asked if the students knew about The Holocaust. One kid raised his hand and said it had something to do with Hitler. I asked if they knew when it took place. Not one single student was able to even name the century in which the Holocaust occurred.

I've asked classes, both teens and adults, if they had heard about blood libels. They had not. I asked what they knew about Jews and usually the answers I received went something like this: They like money. They served as money-lenders or bankers. I asked them if they were aware that Jews were prevented from many professions, from owning land, from joining trade guilds, and that one of the few professions open to Jews was money-lending. They had not. I asked if they had heard of Passion Plays, pogroms, ghettos, and the list goes on and on.

Lately, with so much conflict in the Middle East and with a growing Muslim population, I have asked students (and some adults) who have criticized Israel's stance on Palestinian resettlement, if they were aware that around 900,000 Jews were forced to leave Muslim and Arab lands following the establishment of the State of Israel in 1948. They did not. Not only didn't the students know this, but the teachers didn't either.

Jewish history is world history. If we are not teaching our children this, they grow up to become ignorant, bigoted adults. There is too much of that in our country right now because of a lack of education. Education is the key to understanding how we got to be where we are now. If we don't know where we came from, if we do not understand each other's histories, how can we co-exist in the 21st Century and beyond?

If you haven't read Tara Westover's memoir, "Educated," I recommend this as a must-read for everyone. She details how ignorance shaped her family's views and how dangerous ignorance is.

Aside from our history of persecution, Jews also have a rich history of making the world a better place throughout history in the fields of science, medicine, education, the arts, and the humanities. And despite being only one-tenth of one percent of the world population Jews comprise 22 percent of the Nobel Laureates, despite being denied to top universities due to quotas or worse.

The increase in the number of antisemitic incidents, according to the [ADL Audit of Antisemitic Incidents](#) 2022 is mind-boggling. To omit Jewish history from the State's curriculum would be a great disservice and only result in greater hate, misunderstanding, and ignorance. We have been excluded from the conversation for far too long. I urge you to include us.

Thank you,
Judy Alexander
South Burlington
802-598-7975

Subject: Rule Series 2000 - Education Quality Standards

Education Quality Standards in Vermont must apply to any and all educational organizations taking state and/or federal funds that are paid for by Vermont taxpayers.

Public funding should require compliance with expectations and requirements that benefit all citizens.

If a program fails to do this, then they should lose publicly-funded financial support.

Rule 2000 as currently written does not apply to voucher-supported private schools.

Vouchers are provided thanks to taxpayer funds, so they should be used only for programs that follow the same rules as a fully funded public school.

Please support all children in the State of Vermont by requiring all schools receiving public dollars follow the same rules.

A free education is for all children, and must not cause harm to some.

Thank you.

Mimi Clark
Waltham, VT

My name is Eliza Doucet. I'm a 17 year old born and raised in Bristol, Vermont.

As I prepared for this meeting, I read through all of the materials and I noticed that in the Education Quality Standards groups such as Jewish people, are not addressed. Throughout all of known history, Jewish people have faced oppression but there's more to our story as a community. To me, one of the most important values that's passed down in Jewish culture is perseverance. Despite all the challenges and all the horrible things that my ancestors had to go through, I am here today in Vermont because my grandparents and their grandparents and generations down the line— the Jewish people —have continued to move forward with pride and devotion to our heritage. Vermont students would benefit from learning about our oppression and rich culture we've built off of overcoming it.

What I came here to ask of you is simple. In defining Ethnic Groups in the Standards, it's important that we, as Jewish Vermonters, are included, not just as an example of horrific genocide, but as a people who persevered throughout history against all odds. We are more than our tragic past. The interconnectedness of Judaism- both as an ethnic group and a religion- means that teaching about tragedies such as the Holocaust without teaching about us as a people and our culture, is essentially impossible.

I am asking you again, as a Jewish Vermonter and as a representative for my people, to define 'Ethnic Groups' exactly as it is defined in Act 1, a group of people who "have been historically subject to persecution or genocide." We must teach children growing up in Vermont, not only that Jewish people and antisemitism exist, but also that we are so much more than a historical horror story.

Thank you for your time.

My name is Matthew Vogel, I use he/him pronouns and I am the Executive Director of the Hillel at the University of Vermont. I am representing myself, my role as a father of two children in the Addison County school system, and as a representative of the 1,736 Jewish students, their friends and allies we met on campus last year.

Before I begin my remarks I want to recognize the privilege I bring to this space. I am speaking to you from Western Abenaki land, I am a cis-white male and I am Jewish.

I want this group to be aware of the Department of Education's Office of Civil Rights recent resolution of claims of antisemitism at the University of Vermont. I have been engaged in that fight for the past five years. I want this committee to ask itself why so many Jewish people from around the state are speaking out now to this issue. We have advocated that the definition of Ethnic Groups be exactly as it appears in the ACT 1 law. In ACT 1, Ethnic groups intentionally includes part be, "Groups that have been historically subject to persecution or genocide." This aligns with the White House's recent National Strategy to Counter Antisemitism.

I stood alongside Jewish victims of sexual assault as they were told by their administrators and educators that their bias and harrassment was invalid because others may not experience antisemitism in their exclusion from a group. Their identity was decided for them and they were excluded because they were Jews. This could regularly occur if we don't have our K-12 curriculum equitable in a way that recognizes people, not just the act of genocide.

Vermont leads the nation in so many ways.

Why must Vermont lead the nation in ignoring Jewish voices and minimizing victims and impact of genocide as well through this change in language?

In order to tamp down the antisemitism I see on campus we need to better prepare our Vermont students in their K-12 experience. I fully support teaching ethnic studies, and I want to ensure it is done in a way that includes the teaching of the Jewish people AND all other people historically subjected to persecution or genocide.

Matt Vogel
Executive Director
www.uvmhillel.org
Burack Hillel
439 College Street
Burlington, VT 05405
Phone: 802-238-4326
Mobile: 802-355-6695
[he/him](#)

The following comment read by Jessica Meller on 9/20/23 was delivered on behalf of and with the approval of JCVT (Jewish Communities of Vermont):

Thank you all for your work on Ethnic Studies, important work which JCVT fully supports.

JCVT has submitted a letter concerning the Working Groups' draft Frameworks. Our comments in that letter reflect our interest in making sure that the Frameworks before you this morning meet the needs of all students and comply with the ACT 1 legislation.

Specifically, JCVT has consistently advocated that the definition of Ethnic Groups in the Standards, and now in the Frameworks, to be exactly as it appears in the ACT 1 law.

In ACT 1, Ethnic Groups intentionally includes part B, "groups that have been historically subject to persecution or genocide".

Vermont legislators included part (B) because it wants Vermont K=12 students to also learn about the cultures, contributions and struggles of groups, including Jews, who have been historically subjected to persecution and genocide. This aligns with the White House's recent, first in US history, National Strategy to Counter Antisemitism.

However, in both the Standards and the Frameworks, these groups are not included in their definition of Ethnic Groups. Instead, genocide and persecution - not people - are suggested topics for Ethnic Studies to cover. With this change, the definition of defined groups has been dramatically altered.

We believe genocides and persecutions should not be studied as stand-alone incidents in world history, but rather, explorations should include the history, culture, contributions, and resilience of the historically victimized groups.

We are eager for the SBE to take a look at JCVT's full comments and are available to meet or respond to any questions.

Jessica Meller for JCVT

From: Molly Bachman <molly.bachman@gmail.com>
Sent: Monday, September 18, 2023 4:52 PM
To: Samuelson, Jennifer <Jennifer.Samuelson@vermont.gov>
Cc: Gleason, Kimberly G <Kimberly.G.Gleason@vermont.gov>; Kolbe, Tammy <Tammy.Kolbe@vermont.gov>; O'Farrell, Jennifer <Jennifer.OFarrell@vermont.gov>; Werner, Richard <Richard.Werner@vermont.gov>; Wilburn, Aaliyah <Aaliyah.Wilburn@partner.vermont.gov>; Bouchey, Heather <Heather.Bouchey@vermont.gov>; Fearon, Grey <Grey.Fearon@partner.vermont.gov>; Diop, Mohamed <Mohamed.Diop@vermont.gov>; Jepson, Lyle <Lyle.Jepson@vermont.gov>; Lovett, Tom <Tom.Lovett@vermont.gov>
Subject: Rule Series 2000 - Education Quality Standards

Chairperson Samuelson,

I see nothing in the rule or proposed amendments that makes it explicit that these Education Quality Standards will apply to voucher-supported private schools. The Rule should be explicit in this regard. If the Board deems these Standards important enough that they must be followed by public schools, then they should be binding on all schools that receive public dollars. If the rule is silent, it suggests that the Board would tolerate some lesser standard of equity in publicly funded private schools. Vermont's voucher system has expanded over the years with insufficient guardrails; this is an opportunity to say clearly that all schools receiving public dollars must follow the same rules.

Thank you for your attention to this important matter.

Molly Bachman
former General Counsel to the Vermont Agency of Education and former General Counsel to the Vermont Department of Taxes

**Independent Schools, and Public Education and the Education Quality Standards
September 14, 2023**

Comments from Jo-Anne Unruh, Ph.D., retired educator, special education administrator and retired Executive Director of the Vermont Council of Special Education Administrators

I have been a special educator and special education administrator in Vermont since 1971. In those many years since I have participated in the development and unfolding of services for children and young adults with disabilities in a variety of settings, private and public, and locally and statewide. In Vermont we need robust and strong public schools and independent school systems for historic and current reasons. That said I am deeply concerned about the direction the State Board of Education takes with the rules as applies to Education Quality Standards in relation to Rule 2200, Independent School Programs Approval processes. Please consider the following concerns.

As the Board considers revising the Education Quality Standards (EQS), the policy of the State is not considered throughout the rules. As written these rules are targeted at public schools and school districts; however, there is a lack of accountability for independent schools providing a substantially equal educational opportunity for all students, especially students with disabilities.

Federal law requires students in private school to meet the same educational standards applicable to public schools, these rules do not require independent schools in Vermont to meet the same standard applicable to public schools which are the EQS. If there is no requirement for transparency of accountability for students educated in independent schools, there is no equality of education in Vermont. With separate standards, there is inequality.

Further, given that independent schools are not held to the same standards of assessment of their programs as the public schools, there is no equity in educational opportunity; these rules are to make schools, ALL SCHOOLS, accountable for discrimination in its many forms. I am also deeply concerned there is not link, connection or consistency with the 2200 rules for approval. Again, this is reflective of two systems where there is accountability and transparency only for public schools. There is a genuine lack of reporting requirements for independent schools which further enables separation of these educational systems.

The designation of an independent school as meeting EQS and a mechanism for accountability is wholly lacking in these proposed rules. The designation allows independent schools to charge more in tuition without the accompanying transparency and accountability.

An assurance is simply insufficient, and I ask you to hold independent schools accountable to sending districts that all students meet the same educational standards applicable to public schools. That is the only way to ensure substantially similar educational opportunities for ALL VERMONT CHILDREN, especially students with disabilities which independent schools are to serve.

I am attaching my comments on the 2200 rules as they contain many of the concerns I have regarding these issues of accountability and transparency. The EQS standards must become part of the independent school approval process if we are to have equal educational opportunities for all.

My concerns center in the following areas:

Vermont Agency of Education Capacity:

- The Vermont AOE lacks the critical capacity and authority to actively oversee the education of students with disabilities within the independent schools, both legally and financially.
- There is a lack of AOE recognized input from the local LEAs as to the functioning and capacity of area independent schools to implement special education services that meet the legal requirements of IDEA, state special education rules and state education quality standards for all students. Specifically, some of the independent schools struggle with serving students, over-rely on discrete services rather than inclusive education as outlined in Act 173, billing is questionable at times, or doesn't conform to special education rules and statute, while there is no established mechanism for local LEAs to appropriately communicate this to the AOE, which oversees these entities.
- A structure for achieving this input from the local LEAs is necessary, even more so with the passage of Act 173 that includes a census-based funding system and a commitment statewide to a multi-tiered system of supports for all students in public school. The census-based funding system cannot stand if the costs charged by independent schools for meeting the needs of students with disabilities are not consistent with Act 173, carefully monitored, transparent and clearly communicated to LEAs (local education agencies, typically the school district) and SEA (State Education Agency, in this case the AOE). This is not possible under the rules as proposed where independent schools will continue to bill under a reimbursement model while Act 173 explicitly and in detail outlines why this reimbursement model is dated and problematic.
- There is a lack of a structured connection between the financial regulatory oversight and transparency required of public schools by AOE and that (not) required of independent schools. This creates an incentive for higher costs in private schools, even as the census-based model requires cost containment and shifting to early intervention and core instruction in public schools.

Role of the Local Education Agency - School Districts

- The rules as proposed demonstrate a lack of understanding of the legally prescribed role of the LEA for the education of children with disabilities regardless of whether the student is in a public or independent school. The role that independent schools must play in implementing an appropriate education within the construct of the highly regulated State and federal laws protecting and governing special education must be clearly identified in the regulations. The LEA is an indispensable partner in this process

by law and regulation, both federal and state. For example, when meeting the needs of students with complex and intense needs it is my experience that some independent schools have difficulty meeting these. Students may be asked to leave without communicating with the LEA. This leaves both the LEA and the student and their family in a very difficult situation both for the education and well-being of the student and family and for the LEA programmatically and legally. The LEA is the legally vulnerable entity in this situation and not the private school.

- Hiring and retaining special education staff is also an area of significant concern for a stable special education delivery system, and for addressing the needs in particular areas of disability. An example from Vermont is an independent school approved to serve students with learning disabilities that employed a single special educator with no background in teaching children to read, nor a plan to address this need.
- The role of the special education team (IEP Team) in identifying the strengths, needs, and services for children with disabilities regardless of whether this is in a public or independent school must be specifically affirmed in rule, as is not the case in the proposed rules. The IEP Team's role in oversight of program implementation is critical and cannot happen without the parent and LEA representative's active participation. **The LEA and SEA remain the legally answerable structures, not the independent school. IEPs are legally binding contracts, not recommendations for implementation. This role of the IEP Team needs to be affirmed in Vermont regulation.**
- There is a critical and pervasive role for both school leadership and general education in the implementation of the overall education program for students with disabilities in both public and independent schools. This context includes the state quality standards and access to the full range of regular and special educational services for these children and young adults. Strengthening the universal level of instruction in all schools is the foundation of early learning for all children. This commitment to strengthening universal first instruction was central to the purpose of Act 173 and was clearly articulated within Act 173. **How will this apply to independent schools as this is the basis for funding special education services within a census-based system model? That is not addressed within the rules as proposed.**
- **A prevalent misconception exists that approved independent schools are truly financially independent. In fact, the bulk of tuition funding for most comes from taxpayer dollars, and especially so for the approved therapeutic schools. Therefore, independent schools should be clearly answerable to the public educational system of laws and practices educationally and financially within Vermont law and regulation. Schools that are dependent on tax dollars should follow the same rules and statutes as public schools, or they cannot function as an integral part of our investment in equitable opportunities for all students including those with disabilities.**

Administrative Costs:

The costs borne by LEAs in maintaining the administrative structures to assure for meeting state and federal requirements in program oversight and financial accounting within independent schools on behalf of students with disabilities must be acknowledged and accounted for. That is not acknowledged in the rules necessary with

Act 173 implementation, nor is it acknowledged in public debate over the cost of education in private settings. These overhead costs are higher when services are delivered in private settings. They are significant and are born by taxpayers. **In the absence of adequately funded oversight of independent schools within the SEA in partnership with both LEA and independent school, there is no ability to provide public assurance that tax dollars are appropriately used to support students.**

Summary:

In summary, most approved independent school placements are largely paid for with public dollars. The responsible public agencies including the LEAs and SEA are legally and financially responsible to the Vermont Legislature, Vermont State Board of Education and the federal government for students identified as having special education needs in these schools. The AOE does not have the capacity and tools currently to work effectively with the independent schools and LEAs in overseeing the independent schools responsible for implementation of special education and Act 173's broad purposes.

Recommendations:

- **Budgeting and finance within independent schools needs to be accounted for in a detailed and transparent way by regulation and financial accounting practice.** Both the State Board of Education and the Agency of Education have a role in establishing these practices. The proposed 2200 rules introduce significant risks related to cost increase and inadequate service, and erode the core intent of Act 173 to strengthen the whole education system recognizing the deeply interdependent relationship between general and special education.
- **It is vital that the Agency of Education have both the regulatory authority and the capacity to oversee and monitor the budgeting and financial accountability of approved independent schools when public funds are granted to these schools. Additionally, a mechanism for LEA input into this process is vital, given the role (under both federal and state law) that the LEA plays in working with these schools on behalf of enrolled children. Including an LEA representative under Section 2223 for independent school review and visits would be one step that acknowledges and empowers the districts sending students to the school and funding them there.**
- **Under 2223.8 Denial, Revocation, or Suspension of Approval or 2223.9 Complaints. When investigation is considered by the State Board of Education the Council of Independent Schools is included. Public school administration representation should be consulted as well when a formal investigation is initiated. This is a significant omission, given the critical role of the LEA.**
- **Under 2224 Reciprocity, accreditation from a recognized accrediting agency must be required to consider Vermont and federal special education regulations and the goals of Vermont's Act 173 given the requirement that "the school is meeting the approval standards". In addition, the Agency needs adequate resources and staffing to meet the public assurance imperative of deciding a school meets quality standards.**

- **2226 Application Under 2226.3** “A description of the school enrollment including a statement of how it is designed to serve children with disabilities.” This statement must indicate that the design of services is consistent with Vermont and federal special education regulations and Act 173 core purposes.
- **2227 Approval.** Clarification of the statement “..., that the school provides a minimum course of study pursuant to 16 VSA, ... and that it substantially complies with the Board’s rules for approved independent schools.” An operational definition of “minimum” and “substantially” is needed.
- **2227.5.1** The absence of the licensure needs to be addressed when describing teachers who are providing special education services. This is not a field where “substantially equivalent time in training and experience in their field of instruction” is sufficient unless recognized through a formalized peer review process.
- **2229.3 Assurances.** Demonstration of “understanding” also requires an operational definition. Demonstration of compliance with special education law and regulations both federally and in Vermont would be a recommended standard.
- **2229.4 Procedures for Publicly Funded Students Receiving Special Education Services to Enroll in an Approved Independent School.** Under (a)(1), clarification of the “...and the student meets the other requirements of the school’s enrollment policies.” Clarification of what this encompasses is needed; as enrollment policies vary. In addition, some of the current enrollment practices used by some independent schools have been demonstrated to select against students with learning differences. Allowing schools to set enrollment practices that likely reduce enrollment by students with disabilities appears to conflict with the inclusive intent of Act 173.
- **2223.1 Written Agreements Required.** Detailed and transparent accounting consistent with Generally Accepted Accounting Principles is necessary.
- **2233 Standards and Regulations.** The responsibilities the LEA is given by federal and Vermont law and regulation make it important that the SBE provide the opportunity for LEA representation to “participate in the development and revision of state standards that apply to independent schools.”
- **Private Kindergarten Approval Section 2292 Criteria for Approval.**
(c)(5) Identifying developmental delays in young children, and implementation of programs to address these needs consistent with Early Childhood Special Education requirements in Vermont law and regulation.
- **The vital importance of establishing Agency of Education capacity in implementing and overseeing meaningful oversight and collaboration with independent schools and their LEA partners cannot be overstated.**

Thank you for the opportunity to comment.
Jo-Anne Unruh - JoAnne.Unruh@gmail.com

From: Ted Molnar <president@jcv.org>
Sent: Sunday, August 13, 2023 3:07 PM
To: Samuelson, Jennifer <Jennifer.Samuelson@vermont.gov>
Cc: Tobie Weisman <rebtobie@jcv.org>; Kolbe, Tammy <Tammy.Kolbe@vermont.gov>; Jepson, Lyle <Lyle.Jepson@vermont.gov>; Lovett, Tom <Tom.Lovett@vermont.gov>; Bouchey, Heather <Heather.Bouchey@vermont.gov>; Diop, Mohamed <Mohamed.Diop@vermont.gov>; Grey.Fearson@partner.vermont.gov <Grey.Fearson@partner.vermont.gov>; Gleason, Kimberly G <Kimberly.G.Gleason@vermont.gov>; Jennifer.Ofarell@vermont.gov <Jennifer.Ofarell@vermont.gov>; Werner, Rich <Rich.Werner@vermont.gov>; Aaliyah.Wilburn@partner.gov <Aaliyah.Wilburn@partner.gov>
Subject: VERMONT IRIS ETHNIC STUDIES STANDARDS FRAMEWORK

You don't often get email from president@jcv.org. [Learn why this is important](#)

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Dear State Board of Education Chair Samuelson

We are attaching Jewish Communities of Vermont letter signed by Rabbis throughout our State outlining three deeply felt concerns and needed revisions to the proposed Vermont IRIS Ethnic Studies Standards Framework (Framework) before you.

Our hope for this Framework is that it will encourage a learning environment in which our Vermont youth, who represent the future of our State, will be taught about Jewish Americans and be encouraged to act on antisemitic hatred that still exists in our society, including in Vermont.

We, as Jews, have been subjected throughout the centuries to antisemitism; within the last century alone we have faced genocide and persecution.

Fortunately, we have found a generally safe haven in the United States and a largely welcoming society in Vermont. Vermont, however, has felt less safe for Jews recently including on UVM campus where the US Department of Education's Office for Civil Rights' investigators found that the University of Vermont failed to respond to antisemitic harassment. <https://www.ed.gov/news/press-releases/us-department-educations-office-civil-rights-resolves-investigation-addressing-university-vermonts-responses-allegations-antisemitic-incidents>

University faculty are still asking for more to be done there.

In addition, many of Vermont's Jewish residents felt exceptionally

unsafe when the cause of BDS, with its virulent hatred of Israel, was brought before the

Burlington City Council. (2019-2021 Ethnic and Social Equity Standards Advisory Working

Group member New Hampshire activist Asma Elhuni testified in support of this BDS resolution

at the September 13, 2021 Burlington Council Meeting:

“those same people that know the

history of their ancestors [the Holocaust] are now

supporting the same kind of atrocities...people

have the right to boycott, people have the right to boycott,

people have the right to boycott

[Israel]”)

You may be aware that this Spring the Biden

Administration issued a first-in-US-

history ; National Strategy To Counter Antisemitism&; road map and call to "confront antisemitism in America with urgency." A key focus is its "whole-of-society" call to action for K-12 Departments of Education, county offices of education, and school districts to provide "readily available quality educational resources" that "include Jewish studies in ethnic studies and history curricula." It lists for inclusion curriculum on "Jewish history...positive Jewish contributions to America, Jewish diversity, and manifestations of contemporary antisemitism [as well as the] histories of antisemitism experienced by Sephardic and Mizrahi Jews—who trace their ancestry to Spain, the Middle East, and North Africa—and their stories of exclusion, persecution, and expulsion." Copy is attached for your reference.

We do not find the Framework to be in the spirit of the White House's call to action for Ethnic Studies courses to include Jewish Americans and antisemitism.

Please advise us when you plan to place the Framework on the State Board of Education's agenda.

We hope that your Board will incorporate our recommendations as outlined in the attached letter.

Very truly yours,

Rabbi Tobie Weisman, Executive Director, Jewish
Communities of Vermont

Ted Molnar, President, Jewish Communities of Vermont

Matt Vogel, Executive Director, UVM Hillel

Rabbi Yizhok Raskin, Chabad of Vermont, Burlington

Rabbi David Edelson, Temple Sinai, S. Burlington

Rabbi Aaron Philmus, Ohavi Zedek, Burlington

Rabbi Jan Salzman, Ruach HaMaqom, Burlington

Rabbi David Fainsilber, Jewish Community of Greater
Stowe

Rabbi Ellie Shemtov, Rutland Jewish Center

Rabbi Binyamin Murray, Chabad of Middlebury

Cantor Scott Buckner, Israel Congregation of Manchester

Rabbi Seith Daniel Reimer, Beth El, Bennington

Rabbi Amita Jarmon, Shir HeHarim, Brattleboro

Rabbi Donna Kirshbaum, Bethlehem Hebrew
Congregation

Attachments



August 13, 2023

Re: Vermont's IRIS Ethnic Studies Standards Framework

Dear State Board of Education Chair Jennifer Deck Samuelson and Board of Education Members:

Jewish Communities of Vermont is a non-profit which has been supporting Jews and Jewish organizations throughout Vermont, including advocating for their interests, since 2013.

We recommend that the changes below be made to the Vermont Ethnic and Social Equity Standards Advisory Working Group's ("Working Group") recommended "IRIS Ethnic Studies Standards Framework" ("Framework").ⁱ

a. Revise "Vermont's Definition of Ethnic Studies" Sectionⁱⁱ to Comply with Act 1

In the second sentence of the first paragraph delete "and outside" so it reads:
"suffered....within the United States." (page 4)

In the third sentence of the second paragraph reword and add "as well as groups that have been historically subject to persecution or genocide" to align it with Act 1 so it reads:
"when we refer to Ethnic Studies Groups, it is in reference to (i) nondominant racial and ethnic groups in the United States including indigenous groups (with a special focus on the Indigenous People of Vermont, the Abenaki, Mahican, Pennacook, Pocomtuc, and others), Africans, Asians, Pacific Islanders, Chicanx, Latinx, or Middle Easterners, and additional people of color as well as (ii) groups that have been historically subject to persecution or genocide." (page 4)

These changes align the Framework to Act 1's statutory requirements:

Act 1, Section 1(b): "Definitions. As used in this act:

(1) "Ethnic groups" means:

- (A) nondominant racial and ethnic groups in the United States, including people who are Abenaki, people from other indigenous groups, people of African, Asian, Pacific Island, Chicanx, Latinx, or Middle Eastern descent; and
- (B) groups that have been historically subject to persecution or genocide."ⁱⁱⁱ

The Vermont Agency of Education's Act 1 Request for Proposal requires that the contract's output (i) incorporate Act 1's statutory lens, and (ii) "embody the broadest possible commitment to group inclusivity."



Note: In February 2019, Amanda Garces pressed the Vermont Legislature to not include clause (B) in Act 1. Sharing that this clause concerned her coalition, Garces stated that including teaching about these ethnic groups – people who had been subject to persecution or genocide – could result in students learning about antisemitism which could "punish" activists who push to boycott Israel.^{iv}

Soon thereafter, Garces was appointed Chair of the Working Group. In that role she drafted recommendations for the Working Group's consideration. In 2022, dismissing the Jewish Community of Vermont's objections and suggestions, the Working Group, a majority of whom were Garces' Education Justice Coalition appointees, approved her recommendation that the Education Quality Standards' definition of "Ethnic Group" exclude clause (B).

b. Remove references to consultant "Community Responsive Education" and its representatives

Delete "Community Responsive Education Consultants: Allyson Tintiangco-Cubales, Samia Shoman and Aimee Riechel" (page 1)

Delete ", in collaboration with Community Responsive Education," (page 3)

Community Responsive Education (CRE) is a private, fee-based Ethnic Studies consulting firm.

The State of Vermont should follow other States' examples and avoid promoting private, for-profit consulting firms to Vermont Superintendents, administrators and teachers who will receive the Framework. For example, in January 2022 State Superintendent of Public Instruction Chris Reykdal removed private, fee-based consultants from Washington State's Ethnic Studies materials noting that the groups he removed also advance political agendas. Similarly, the consultants retained to assist the California Department of Education prepare the CA Ethnic Studies Model Curriculum (ESMC) are not mentioned in the ESMC; it credits the California State Board of Education and Department of Education only.^v

Moreover, the State of Vermont need not promote private groups which push discriminatory materials. Vermont law requires schools to furnish students "educational services...in a nondiscriminatory manner"^{vi} and Vermont's Educational Quality Standards "prohibit discrimination against any student ... as a result of or based upon, ethnicity [and] religion."^{vii}

In 2019 the State of California rejected CRE representatives' Ethnic Studies content due to its biased, antisemitic, and anti-Israel content. See Appendix. CRE's Vermont consultants advance similar content in their private Ethnic Studies teacher trainings and writings.^{viii}



c. Remove reference to political activist group “Education Justice Coalition”

Delete: “The Education Justice Coalition responsible for appointing community members”
(page 1)

The reference to Education Justice Coalition (EJC), a group not recognized in Act 1 to work on this project, should be removed.

Act 1 calls for the Vermont Coalition for Ethnic and Social Equity in Schools to appoint some working group/advisory committee members. Act 1 does not mention the Education Justice Coalition (EJC):

Act 1, Section 1(d)(1): “Vermont Coalition for Ethnic and Social Equity in Schools (Coalition) shall appoint the 10 members who represent ethnic groups and social groups and the member identified under subdivision (c)(2) of this section. Appointments of members to fill vacancies to these positions shall be made by the Coalition.”^{ix}

If EJC in fact appointed Act 1 Working Group members, as it appears it did,^x the State of Vermont’s projects that EJC representatives informed (including the Framework) should be set aside and a new Working Group, that is constituted in accordance with Act 1, should be convened to complete these projects.

Moreover, EJC is an activist group with a pronounced anti-Israel bias. Interspersed in EJC’s social media posts on “building inclusive messaging for education justice” is anti-Israel messaging such as promoting Act 1 Working Group Vice Chair Mark Hage’s Vermonters for Justice in Palestine June 2023 march that denigrated Israel employing false narratives.^{xi} EJC’s social media posts are peppered throughout with anti-Israel commentary and events hosted by anti-Israel activist groups, including some for K-12 Ethnic Studies teachers and students.^{xii} (Hage is a well-known anti-Israel activist who led Vermonters for Justice in Palestine’s decade-long campaign to pressure Ben & Jerry’s to not sell its ice cream in Israel.^{xiii})



Finally, this EJC credit was added *after* the Working Group approved the Framework. It is not part of the Working Group's recommendation and was not shared with the public so it could not comment on this reference prior to the Working Group's vote.

Thank you for your careful consideration of our recommendations.

Very truly yours,

Rabbi Tobie Weisman, Executive Director, Jewish Communities of Vermont

Ted Molnar, President, Jewish Communities of Vermont

Matt Vogel, Executive Director, UVM Hillel

Rabbi Yizhok Raskin, Chabad of Vermont, Burlington

Rabbi David Edelson, Temple Sinai, S. Burlington

Rabbi Aaron Philmus, Ohavi Zedek, Burlington

Rabbi Jan Salzman, Ruach HaMaqom, Burlington

Rabbi David Fainsilber, Jewish Community of Greater Stowe

Rabbi Ellie Shemtov, Rutland Jewish Center

Rabbi Binyamin Murray, Chabad of Middlebury

Cantor Scott Buckner, Israel Congregation of Manchester

Rabbi Seith Daniel Reimer, Beth El, Bennington

Rabbi Amita Jarmon, Shir HeHarim, Brattleboro

Rabbi Donna Kirshbaum, Bethlehem Hebrew Congregation

Attachment

cc: Heather Bouchey, Interim Vermont State Secretary of Education



Appendix

The Vermont Agency of Education's October 2022 Request for Proposal for an Act 1 Working Group on Ethnic Studies' consultant called for bids from those (i) with expertise with similar projects, (ii) that will ensure that "the framework ...embody the broadest possible commitment to group inclusivity," and (iii) that "take into account parental concerns about religion." See *also* Act 1, Section 1(g)(1)(F) (2019) ("Duties of the Working Group...ensure that the basic curriculum [is] welcoming to all students and take into account parental concerns about religion or culture").

In November 2022, the Agency of Education awarded this \$50,000 contract to Community Responsive Education (Contract # 45131).

Community Responsive Education (CRE) is a private California Ethnic Studies consulting firm co-founded and led by Allyson Tintiangco-Cubales and Jeff Duncan-Andrade. Working in Vermont were Tintiangco-Cubales and her CRE consultants Aimee Riechel and Samia Shoman.

Controversial California Ethnic Studies Model Curriculum Draft

In 2019, Tintiangco-Cubales co-chaired the State of California's Ethnic Studies Model Curriculum (ESMC) Advisory Committee,^{xiv} an important State of California project that made national news immediately after her advisory committee's ESMC draft was released to the public for comment. (Vermont Ethnic Studies consultants Riechel and Shoman served on Tintiangco-Cubales' ESMC Advisory Committee.)

The reaction to Tintiangco-Cubales' ESMC draft was exceptionally negative and, within weeks, the State of California discarded her draft.

Among those displeased were (i) Governor Newsom who called Tintiangco-Cubales' draft offensive and publicly stated that her draft would never see the light of day in California,^{xv} (ii) the California State Board of Education (SBE) President Linda Darling-Hammond who added that it did not comply with California law or the SBE's project guidelines,^{xvi} (iii) the California legislature which in 2021 enacted guardrails to attempt to prevent its content from entering classrooms,^{xvii} and (iv) 19,000 Californians who submitted public comments.

Of great concern to the California Jewish community was that Tintiangco-Cubales' draft was rife with antisemitic and anti-Israel content including the trope that Jews control the media and the characterization of the anti-Jewish and anti-LGBTQ hate group the Nation of Islam as an "African American spiritual and religious tradition."^{xviii}

Tintiangco-Cubales' draft denigrated Israel as well as targeted Jews' right to self-determination there, their indigenous homeland, with favorable mentions of the Boycott, Divestment and Sanction Israel (BDS) movement, a movement whose aims are to deny Jews this right there, tagging BDS instead a social justice movement for students to study and advance during school.^{xix}



Moreover, in an Ethnic Studies curriculum designed to teach students about discrimination against minorities, Tintiangco-Cubales' ESMC did not list antisemitism among the eight types of hate it called out for study^{xx} -- despite the fact that antisemitism is the motivation behind 63% of our nation's religious-based hate crimes directed at the Jewish 2.4% of the population.^{xxi} Also, it did not offer content on Jewish Americans.

SBE President Linda Darling-Hammond aptly summed up the situation caused by Tintiangco-Cubales' work: an Ethnic Studies curriculum "should be accurate, free of bias, appropriate for all learners in our diverse state" so Tintiangco-Cubales' draft -- which "wades unnecessarily into the global debate over the Israeli-Palestinian conflict" -- must be "substantially redesigned."^{xxii}

Vermont's Ethnic Studies Frameworks Draft and Policy Recommendations

CRE's May 2023 Vermont Ethnic Studies Framework (Framework) draft presented to members of the Vermont Ethnic and Social Equity Standards Advisory Working Group (Working Group) included as teacher resources the controversial concepts that California discarded, later deleted from the Framework *after* the Agency of Education shared this draft with the public pursuant to a records request. (The Working Group Chair did not post this draft, which was discussed in agendized public sessions, for the public to access.)

The May 2023 draft Framework's recommended teacher resources included:

- i) the 2019 California ESMC draft that the State of California rejected,
- ii) an article that portrays teens' religious conversion to the Nation of Islam positively (Akom, "Reexamining Resistance as Oppositional Behavior: The Nation of Islam and the Creation of a Black Achievement Ideology"), and
- iii) a paper that encourages readers to advocate for anti-Zionism (Maira and Shihade, "Meeting Asian/Arab American Studies: Thinking Race, Empire and Zionism").

In August 2023, CRE's Vermont Ethnic Studies policy recommendations were shared publicly.^{xxiii} In it is a link to a Jefferson Union High School District presentation. Jefferson Union's Ethnic Studies course outline instructs teachers to teach students that "anti-Zionism" is a social justice movement around which students should build solidarity in class.^{xxiv} (CRE is Jefferson Union's Ethnic Studies consultant, providing services under a \$180,000 contract with the district.^{xxv} CRE and its representatives are involved with the Ethnic Studies work in the three other districts mentioned in its Vermont policy recommendations; Shoman and Riechel are employed by San Mateo Union and San Francisco Unified School Districts, respectively.)

As with BDS, anti-Zionists single out Jews' beliefs and aims for disdain and to deny Jews the same rights they advance for other groups -- self-determination and sovereignty in one's indigenous homeland. See Jewish Virtual Library. Almost a century ago, anti-Zionism was devised as a state-sanctioned, "legitimate" way to discriminate against Jews in the Soviet Union. Soon thereafter, anti-Zionism became a rationale to oppress, imprison, dispossess, and ethnically cleanse almost one million Jews in the Middle East and North Africa.^{xxvi} Today, United States anti-Israel activists advance anti-Zionism as an anti-racist, anti-settler colonialist political campaign based on narratives, not facts, with the same antisemitic intent as in the Soviet Union and Middle East decades ago.^{xxvii}



For a detailed description of the anti-Israel messaging that CRE representatives, including Samia Shoman, inject into K-12 Ethnic Studies teacher trainings see “Under the Radar: Ethnic Studies Activists Push Anti-Israel Content Into American Schools.”^{xxviii}

ⁱ [Standards Framework 6-30-2023 \(1\).pdf - Google Drive](#)

ⁱⁱ Working Group’s recommended Framework:

“According to the WG’s suggested revisions to the EQS, ‘Ethnic Studies’ is defined as is interdisciplinary, age appropriate and grade-appropriate curricula and programs dedicated to the historical and contemporary study of race, ethnicity, and indigenous peoples (including the Indigenous People of Vermont). This requires a critical examination of the experiences and perspectives of racial and ethnic groups and indigenous peoples that have suffered systemic oppression, marginalization, discrimination, persecution, and genocide within and outside the United States. ‘Ethnic Studies’ may involve a critical examination of these experiences and perspectives through the lens of the characteristics of social identity groups. The WG defined ‘Social Identity Group’ to mean a group of people who share common characteristics that shape their identity and promote a sense of unity. Including sex, sexual orientation, gender identification, disability, class, socio-economic status, or other characteristics and conditions that are innate, unchangeable, or fundamental to identity.

“Building on these definitions, this framework refers to Ethnic Studies Groups throughout the text. Ethnic Studies, from its inception in 1969, focuses on providing ‘safe academic spaces for all to learn the histories, cultures, and intellectual traditions of Native peoples and communities of color in the YUS in the first person and also practice theories of resistance and liberation to eliminate racism and other forms of oppression.” (San Francisco State University). In this framework, when we refer to Ethnic Studies Groups, it is in reference to Black, Indigenous (with a special focus on the Indigenous People of Vermont, the Abenaki, Mahican, Pannacook, Pocomtuc, and others). Asian Americans, Latinas/os/e’, and additional people of color.”

ⁱⁱⁱ <https://legislature.vermont.gov/Documents/2020/Docs/ACTS/ACT001/ACT001%20As%20Enacted.pdf>

^{iv}

<https://legislature.vermont.gov/Documents/2020/WorkGroups/Senate%20Education/Bills/H.3/Written%20Testimony/H.3~Amand%20Garces~Testimony-VT%20Coalition%20for%20Ethnic%20Studies%20and%20Social%20Equity%20in%20Schools~2-6-2019.pdf> (Garces: including this clause could “allow...abuses against marginalized people to occur” and “punish advocacy groups and activism promoting boycotts of Israel”) (February 6, 2019)

^v [Ethnic Studies Model Curriculum \(ca.gov\)](#) at pdf page 4.

^{vi} 16 V.S.A. Section 165(a)(7).

^{vii} <https://education.vermont.gov/sites/aoe/files/documents/eqs-final-revisions-updated-05-18-23%20.pdf> (approved by SBE May 2023).

^{viii} [Under the Radar: Ethnic Studies Activists Push Anti-Israel Content into Schools | CAMERA](#) (“Samia Shoman, who has Palestinian roots, is a leading anti-Zionist proponent among LESMCC consultants. ... she showed a map of the Middle East in which the name ‘Palestine’ appears, and the State of Israel is missing from the map”) and [Fight for Ethnic Studies Moves to K-12 Classrooms | Convergence \(convergencemag.com\)](#) (Tintiangco-Cubales co-wrote that “as soon as Islamophobic and Zionist organizations like the Antidefamation League (ADL), the Jewish Community Relations Center (JCRC) and the Simon Wiesenthal Center saw the inclusion of Palestine in the curriculum, they organized an aggressive campaign to sanitize the curriculum [and] the Department of Education approved a gutted, all-lives matter version”)

^{ix} [Draft Bill Template \(vermont.gov\)](#)

^x [Act 1 Organizing — Education Justice Coalition of Vermont \(edicoalitionvt.org\)](#)

^{xi} (20+) [Facebook](#). See also EJC Facebooks posts:

- March 22, 2022 book “P is for Palestine”
- July 15, 2022 post “Zionism is a political ideology, not a race or a religion”
- September 19, 2022 post “Come out Wednesday to support Vermonters for Justice in Palestine. We need to ensure UVM students for justice in Palestine are not silenced.”
- October 13, 2022 post calling upon members to “support students in solidarity with Palestine and our collective ability to tell the truth” displaying a sign that says “that criticism of apartheid Israel is not antisemitism.”

^{xii} (20+) [Facebook](#) (posted on Education Justice Coalition Vermont’s Facebook page February 2021)

^{xiii} [We got Ben & Jerry’s to stop selling in Israeli settlements. Here’s how we did it | Mark Hage | The Guardian](#)

^{xiv} [List of Advisory Committee Members - Curriculum Frameworks & Instructional Materials \(CA Dept of Education\)](#)



^{xv} [In face-to-face with Gov. Newsom, strong support for Jewish concerns \(jweekly.com\)](#)

^{xvi} [California needs time to get ethnic studies curriculum right | EdSource](#)

^{xvii} [Bill Text - AB-101 Pupil instruction: high school graduation requirements: ethnic studies. \(ca.gov\)](#) (see Section 51225.3(a)(1)(G)(vi))

^{xviii} [Instructional Quality Commission Agenda - Instructional Quality Commission \(CA Dept of Education\)](#) (Agenda Item 2, Attachment 2 at pages 44 and 259).

^{xix} [Instructional Quality Commission Agenda - Instructional Quality Commission \(CA Dept of Education\)](#) (Agenda Item 2, Attachment 4 at page 2).

^{xx} [190729 Jewish Caucus Letter on Ethnic Studies Model Curriculum.pdf](#)

^{xxi} [cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/hate-crime](#)

^{xxii} <https://www.cde.ca.gov/be/pn/nr/yr19sberel01.asp> and <https://edsources.org/2019/california-needs-time-to-get-ethnic-studies-curriculum-right/617650>

^{xxiii} [Vermont Ethnic Studies Framework: Recommendations for Policies](#)

^{xxiv} [Ethnic Studies Course Proposal Form \(eboardsolutions.com\)](#)

^{xxv} [jeffersonunion.agendaonline.net/public/Meeting.aspx?AgencyID=85&MeetingID=26253&AgencyTypeID=1&IsArchived=True](#)

^{xxvi} <https://fathomjournal.org/soviet-anti-zionism-and-contemporary-left-antisemitism/> and <https://blogs.timesofisrael.com/raping-the-jews-in-egyptian-prisons/>

^{xxvii} [Anti-Zionism | ADL](#)

^{xxviii} <https://www.camera.org/article/under-the-radar-ethnic-studies-activists-push-anti-israel-content-into-american-schools/>

THE U.S. NATIONAL STRATEGY TO COUNTER ANTISEMITISM

MAY 2023



Through this U.S. National Strategy to Counter Antisemitism, we are taking a historic step forward. I am proud to lead my Administration's efforts to counter antisemitism, and I urge all Americans to join me in ensuring that in America, evil will not win. Hate will not prevail. The venom and violence of antisemitism will not be the story of our time. The power lies within each of us to transform that story. To rise together against hate. To show the world who we are. And to restore the soul of America together.

A handwritten signature in black ink, appearing to read "Joe Biden".

In May 2023, President Biden issued a first-in-US-history nationwide alert to "confront antisemitism in America with urgency" and "U.S. National Strategy To Counter Antisemitism" road map.

A key focus is President Biden's "whole-of-society" call to action which includes K-12 Departments of Education, County Offices of Education, and school districts providing "readily available quality educational resources:"

We call on state and local governments to include Jewish studies in ethnic studies and history curricula. Lessons should include Jewish history, as well as curricula on positive Jewish contributions to America, Jewish diversity, and manifestations of contemporary antisemitism.

More education [is needed] on Jewish American history and the valuable role that Jews have played in our national story.

President Biden highlights the need for students to also learn about the United States and global histories of antisemitism, including the Holocaust, and "histories of antisemitism experienced by Sephardic and Mizrahi Jews—who trace their ancestry to Spain, the Middle East, and North Africa—and their stories of exclusion, persecution, and expulsion."

President Biden, embracing the most prominent definition of antisemitism, the International Holocaust Remembrance Alliance (IHRA)'s working definition, reiterates the United State's "unshakable commitment to the State of Israel's right to exist, its legitimacy, and its security [and] recognize[s] and celebrate[s] the deep historical, religious, cultural, and other ties many American Jews and other Americans have to Israel." <https://www.whitehouse.gov/wp-content/uploads/2023/05/U.S.-National-Strategy-to-Counter-Antisemitism.pdf>

From: Mary Lundeen <mary.lundeen@mmuusd.org>
Sent: Wednesday, October 25, 2023 4:22 PM
To: Diop, Mohamed <Mohamed.Diop@vermont.gov>; Fearon, Grey <Grey.Fearon@partner.vermont.gov>; Gleason, Kimberly G <Kimberly.G.Gleason@vermont.gov>; Kolbe, Tammy <Tammy.Kolbe@vermont.gov>; Jepson, Lyle <Lyle.Jepson@vermont.gov>; Lovett, Tom <Tom.Lovett@vermont.gov>; O'Farrell, Jennifer <Jennifer.OFarrell@vermont.gov>; Samuelson, Jennifer <Jennifer.Samuelson@vermont.gov>; Werner, Richard <Richard.Werner@vermont.gov>; Wilburn, Aaliyah <Aaliyah.Wilburn@partner.vermont.gov>; Bouchey, Heather <Heather.Bouchey@vermont.gov>
Cc: Brian Campion <bcampion@leg.state.vt.us>; Peter Conlon <pconlon@leg.state.vt.us>; Reed-EXT, Pam <pam.reed@rcpsvt.org>; kbenway <kbenway@svvvt.org>
Subject: Independent Schools, Public Education and the Education Quality Standards Public Comments

EXTERNAL SENDER: Do not open attachments or click on links unless you recognize and trust the sender.

Dear State Board of Education Board Members, Sec. Bouchey, Rep. Conlon, and Senator Campion:

Please see the attached public comments from the Vermont Council of Special Education Administrators (VCSEA) related to the EQS and Independent Schools.

Best Regards,
Mary Lundeen
Past President of VCSEA

cc: Pam Reed, VCSEA President
Kris Benway, VCSEA President-Elect

--

Mary K. Lundeen, M.Ed.
Director of Special Services
Mount Mansfield Unified Union School District
10 River Road
Jericho, VT 05465
Phone: (802) 434-2128
Fax: (802) 899-4001
mary.lundeen@mmuusd.org

VT Special Education Parental Rights/Procedural Safeguards

"The illiterate of the future will not be the person who cannot read. It will be the person who does not know how to learn."

~ Alvin Toffler



To: The Vermont State Board of Education
Rep. Peter Conlon, Chair Vermont House Education
Sen. Brian Campion, Chair Vermont Senate Education

From: The Vermont Council of Special Education Administrators (VCSEA)

Date: October 25, 2023

Re: Independent Schools, Public Education and the Education Quality Standards

The following comments are being submitted on behalf of The Vermont Council of Special Education Administrators (VCSEA). VCSEA is an organization dedicated to providing **leadership for the education of all children with a specific focus on students with disabilities.**

VCSEA supports the purpose of the Series 2000 Education Quality Standards to, “ensure that all students in Vermont public schools are afforded educational opportunities that are substantially equal in quality and enable them to achieve or exceed the standards approved by the State Board of Education. These rules are designed to ensure continuous improvement in student performance, instruction and leadership to enable students to attain rigorous standards in high-quality programs.”

VCSEA’s position is that the EQS standards must become part of the independent school approval process.

Our concerns with the Series 2000 Education Quality Standards are as follows:

1. Independent schools are not being held to the same standards related to assessment that the public schools are required to follow. This accountability is necessary to “enable students to attain rigorous standards in high-quality programs.” Independent schools must implement an assessment system that consists of formative and summative assessments and provides data to inform instruction, measure progress, and assist teams in ensuring students meet graduation requirements.
2. A process for ensuring that independent schools meet the criteria for high-quality programs is not evident in the proposed EQS rules. The Individuals with Disabilities Education Act (IDEA) requires Local Education Agents (LEAs) to

document adequate student progress as a measure of a Free Appropriate Public Education (FAPE). Assessment data, which is tied to the state standards, is used to document individual student growth, as well as to assist IEP teams in determining the need for Extended School Year Services (ESY). Without clear and accurate data indicating adequate progress, school districts may be responsible for providing unnecessary special education services, causing additional financial responsibilities for public education..

3. The Vermont Agency of Education currently lacks the authority to provide oversight and monitoring to Independent Schools serving students with disabilities. **It is critical that the Agency of Education be granted the regulatory authority to monitor the financial accountability of independent schools because public funds are being used to pay tuition costs. Accounting procedures consistent with the Generally Accepted Accounting Principles (GAAP) is necessary.**
4. Teacher licensure for independent schools, particularly for those professionals providing special education services, must mirror that of professionals working in public schools. Students with disabilities are our most vulnerable students. They deserve and require highly skilled individuals who understand learning differences, and understand how to modify and adapt curriculum based on the student's unique needs. Without appropriately certified and licensed teachers, instruction and student growth is compromised.
5. The LEA is responsible for the provision of a Free Appropriate Public Education (FAPE) for every student eligible to receive special education services. It is imperative that LEA representation or a VCSEA representative is an active part of each independent school review process. This will ensure that the requirements of the Individuals with Disabilities Education Act (IDEA) and the VT Special Education Rules and Regulations are being followed, and that students are provided with a FAPE. Parents have due process rights when FAPE is compromised which has financial implications for the District on top of the educational loss to the student.

Vermont Educational Equity Collective (VEEC)

communications@weareveec.org

10/25/2023

Vermont Board of Education
Education Quality Standards Committee
Agency of Education
1 National Life Drive, Davis 5
Montpelier, VT 05620-2501

Subject: Education Quality Standards Public Comment (Rule Series 2000)

Dear Vermont State Board of Education,

We are writing to express our concerns and, at the same time, our strong support for the development and implementation of consistent, comprehensive, and inclusive standards in both public and independent schools in Vermont. Our concerns are over the integration and replacement of suggested standards with modified language from "Rule 2200." These standards should be designed to protect students and ensure their right to equal access to a high-quality education while engaging and furthering anti-discrimination, equity, cultural responsiveness, and inclusivity. The modified language from "Rule 2200" does not provide protections to Vermont students who are subject to hate, bias, discrimination, and the resulting physical and psychological harm. What is more consistent with the needs and rights of marginalized students in Vermont, is increased anti-discrimination protections, NOT less. The EQS Working Group has put significant work into speaking with students, educators, and leadership across our state and the value of these shared experiences and stories should not be ignored. Diluting anti-discrimination language reinforces patterns of exclusion, rather than meeting the needs of marginalized students in Vermont. We agree there should both be consistency among public and private schools, and stronger anti-discrimination policies that EQS has been working with the community in addressing. "Rule 2200" contributes to the harm of our marginalized students by ignoring and further erasing their voices and needs. We believe the safety of marginalized students would be compromised with the adoption of modified language from "Rule 2200". Effective and essential anti-discrimination measures must be implemented in all Vermont schools to ensure that all students are protected.

Education is a fundamental right and a pillar of our society, and it is imperative that all students have access to educational institutions that provide not only a high standard of learning but also a safe and nurturing environment. This must also include independent schools throughout Vermont, as each student's education and safety is essential to lead Vermont into a more nurturing, accepting and inclusive space. Education is not only about the acquisition of knowledge but also about fostering values such as respect, dignity, tolerance, and understanding among students for the varying rich cultures we all hold. Therefore, it is essential that we establish, maintain, and enforce anti-discrimination policies in all educational settings,

including independent educational institutions by applying stronger anti-discrimination measures than the modified language that “Rule 2200” would provide.

It is paramount that the Vermont Board of Education ensures that the Education Quality Standards apply equally to both public and independent schools. This will send a powerful message that Vermont is committed to providing an education system that is truly inclusive, anti-racist, and equitable for all our students.

We urge the Vermont Board of Education to consider Education Quality Standards Committee recommendations seriously and work towards the development of such comprehensive standards that protect the interests and well-being of all Vermont students. By doing so, we can create a future in which every student has an equal chance to achieve or exceed the standards set by the State Board of Education.

Thank you for your time and dedication to ensuring a bright and equitable future for all Vermont students. I look forward to seeing progress in this critical matter.

Sincerely,

Vermont Educational Equity Collective (VEEC)

Maria Davies, Lamoille North Supervisory Union
Tony Strat-Cortez, Thetford Academy
Michelle Irish, Franklin Northeast Supervisory Union
Gianni Solorzano, Orleans Southwest Supervisory Union
Traci Price, Windsor Southeast Supervisory Union
Susannah White, Rutland Northeast Supervisory Union
Erin Maguire, Essex Westford School District
Devon Voake, Dresden School District
Lindsay Turgeon-Brown, Windham Central Supervisory Union
De-Dee Loftin-Davis, Loftin-Davis Consulting
Dana Decker, WRVSU Equity Coordinator

Vermont State Board of Education
Agency of Education
1 National Life Drive, Davis 5
Montpelier, VT 05620
Submitted Electronically

December 5, 2023

Dear State Board of Education Members:

We write to formally comment on the State Board of Education's proposed amendments to Rule Series 2200 and to give voice to the 90% of our constituents who voted in support of the following resolution by the Taconic & Green Regional School District:

- 1. Because our district does not operate a public high school, students have the opportunity to choose from a variety of public and independent high school options;*
- 2. The electorate does not support the public funding of any school that discriminates against students or staff on the basis of race, creed, color, national origin, disability, marital status, sex, sexual orientation, or gender identity;*
- 3. The electorate supports the current structure of independent schools having autonomy over their governance and operations within the current regulatory framework. This structure of oversight has enabled our districts to make high school education available, as required by the State of Vermont, while maintaining confidence that the schools serving our students provide a high quality of education; and*
- 4. The electorate opposes efforts to change the current structure in a way that eliminates educational opportunities made possible by our current practice of high school choice. The electorate believes our current local educational system, in a great example of Vermont traditions, has evolved within this current structure, through a high level of community commitment and an appropriate exercise of local control, to provide high quality, equitable educational opportunities for our students.*

The voters in the nine towns within the Taconic & Green district have spoken clearly in opposition to the public funding of schools that discriminate, and in support of our local education system, which provides local students with a choice that includes access to independent schools that are approved, through the rigorous process laid out in Rule Series 2200, to receive public tuition. We support the SBE's proposed amendments to Rule Series 2200, which are consistent with the wishes of our local communities, particularly with regard to strengthening anti-discriminatory practices. We also support the application of ethnic and social equity principles from Act 1 to Rule Series 2200. With this context, we respectfully ask that you do not make more substantive changes the rules than what is proposed in your preliminary draft.

Finally, we ask that you consider two fundamental principles that underpin the accountability of the independent schools that serve the students within our community. First, at an individual level, families have a choice. If a school is not meeting the needs of a student, the family can choose to send their children to another school. In fact, we have many families who choose to send siblings to different schools, because the unique needs of each student can be appropriately matched in different environments. Second, from a systems perspective, if our local independent schools fail to meet the needs of the community, a simple majority vote of the electorate is all that is required to end tuitioning and transition to a model where we operate a public school.

Sincerely,

Representative Kelly Pajala (Windham-Windsor-Bennington)

Representative Seth Bongartz (Bennington-4)

Representative Kathleen James (Bennington-4)

Representative Mike Rice (Bennington-Rutland)



Vermont Independent Schools Association

To: Vermont State Board of Education (SBE)

From: Vermont Independent Schools Association Executive Committee

Date: December 5, 2023

RE: Comment on Rule Series 2200 Draft Updates

Thank you for providing members of the public with the opportunity to comment on the draft updates to SBE Rule Series 2200. We are submitting this written comment on behalf of the Vermont Independent Schools Association (VISA).

We appreciate your diligent and thoughtful approach to these updates and are very supportive of the reorganization of the rules, which makes them easier to navigate. We have summarized our general comments, along with specific suggestions for further refinements to consider as you move forward with this rulemaking.

Our comments (including suggested changes) on proposed amendments to Rule Series 2200 are outlined below and correspond to the Clean Text copy of the proposed amendments, dated August 23, 2023¹.

Act 1 Recommendations & EQS

At the onset, we need to be very clear that **VISA supports the goals of Act 1 and the ethnic and social equity recommendations of the Act 1 Working Group**. It is unfortunate that some individuals and organizations continue to mischaracterize our position on this important work. It is equally frustrating that these individuals and organizations are trying to advance their own political objectives - which have nothing to do with ethnic and social equity studies - under the guise of Act 1.

We support the SBE's approach to apply a common set of ethnic and social equity principles to both the Education Quality Standards (EQS) and the Independent School Approval Rules (Rule Series 2000 and 2200, respectively). More specifically, **VISA supports the application of these ethnic and social equity principles to SBE Rule Series 2200**.

¹

<https://education.vermont.gov/sites/aoe/files/documents/sbe-rule-2200-independent-school-program-approval-clean-text2-10-09-2023.pdf>

These principles are consistent with the core values shared by VISA and our member schools, which embrace and promote diversity, equity, inclusion and belonging within their schools, with practices, pedagogies, and curricula that are culturally responsive, anti-racist, and affirming of individual identities. The reality is that our member schools have been at the forefront of this work. Our independence has allowed us to quickly and flexibly adapt to the needs of the students we serve - which often outpaces the speed of regulatory change. Many of the students in our schools come from the very groups that Act 1 speaks to. All too often, these students have come to our schools from environments that were unwelcoming.

We agree with the SBE's conclusion that the unilateral application of the entire EQS rule series to approved independent schools is inconsistent with the statutory framework that governs independent and public schools. This statutory framework acknowledges different governance, accountability, and financial structures and provides specific direction to guide the SBE's rulemaking powers for the two regulated environments that operate within this framework. The very first section of 16 V.S.A. § 165, the statute that governs EQS, explicitly states that "*each Vermont public school... shall meet the following education quality standards...*" (our emphasis).² A different statute³ authorizes the SBE to promulgate rules governing the approval of *independent schools*, while another statute⁴ imposes a duty upon the SBE to grant, suspend, revoke, and renew approvals of *independent schools*, consistent with the SBE's *independent school* approval rules.

The distinctions between these two statutory constructs can be illustrated when examined through a different perspective. As an example, consider the implications of a proposal requiring all public schools to comply with Rule Series 2200 (the independent school approval rules) in their entirety. A rational evaluation of such a proposal would rightly conclude that this would be an inappropriate and unlawful exercise of the SBE's authority, since Rule Series 2200 is designed to give effect to a statutory duty the SBE has to grant (or deny) approval of independent schools. While the SBE has a statutory duty to grant (or deny) approval of an independent school at least every five years, it does not have similar authority to approve public schools.

The universal and unilateral application of EQS to approved independent schools would result in significant structural changes that are not only unrelated to the goals of Act 1, but as noted above, would be impermissible under Vermont's statutory framework. More fundamentally though, many of the EQS rules (unrelated to Act 1) just don't make sense in an independent school context.

EQS is designed for an education system that is wholly contained and managed by a superintendent. For example, EQS rules specify that schools must follow a curriculum developed by the supervisory union⁵ and that heads of school be supervised by the

² 16 V.S.A. § 165(a)

³ 16 V.S.A. § 164(14)

⁴ 16 V.S.A. § 166

⁵ Proposed EQS Rule 2120.6

superintendent⁶. As a practical matter, this would be unworkable, since most independent schools serve students from large (mostly rural) geographic catchment areas spanning multiple supervisory unions. Several of our member schools serve students from four or more supervisory unions. How would an independent school be expected to comply with EQS when it is expected to deliver four (or more) separate (potentially conflicting) curricula? How can the head of an independent school be supervised by four (or more) superintendents, when he or she is actually employed by the independent school's board of trustees?

The requirement that all educators hold a professional license is another challenge that EQS would cause for independent schools - one that would be highly disruptive at a time when Vermont is facing an educator workforce shortage. We respect and value the licensure that many Vermont educators have earned. In fact, many professionals at our member schools hold educator licenses. But as we have learned from experience, licensure is not the only indicator of educator quality, and it has the effect of creating a "paper ceiling"⁷. This is particularly true for new Americans and professionals who may have come into education through a non-traditional route (such as a second career).

We want to acknowledge the SBE's stated intent⁹ to harmonize specific sections of Rule Series 2000 (EQS) and Rule Series 2200, namely the statement of purpose and definition of discrimination. We recognize and appreciate that the board is carefully reviewing this language to ensure conformance with applicable statutory law. We are supportive of language in these two sections that can be uniformly applied to both sets of rules and is consistent with legislative intent and underlying statutes.

To reiterate, we support the goals of Act 1 and the ethnic and social equity principles recommended by the Act 1 Working Group. EQS is not the correct rule series to advance this important work forward in the independent school world, but Rule Series 2200 is. We support the SBE's proposed amendments to Rule Series 2200 as the appropriate mechanism to apply these principles to independent schools. We do not support the application of unrelated provisions of EQS to independent schools.

2223.3.4. Maintaining Safe and Equitable Access to Educational Opportunities

For consistency of style, we suggest modifying 2223.3.4(j), (k), (l), (m), (n) as follows:

(j) practices that ensure compliance ~~comply~~ with requirements of 18 V.S.A. §1120 et seq., regarding the immunization of students against disease;

(k) ~~maintain~~ a policy pursuant to 16 V.S.A. §912 regarding a student's right to be excused from participating in any lesson, exercise, or assessment requiring the student to participate in or observe the dissection or harm of an animal;

⁶ Proposed EQS Rule 2121.1

⁷ <https://www.newamerica.org/education-policy/policy-papers/teacher-talent-untapped/>

⁸ <https://www.future-ed.org/the-obstacles-to-a-more-diverse-teacher-workforce/>

⁹ October 12, 2023 Memo from SBE Chair Samuelson

(l) procedures to ensure that provide students have access to menstrual products at no cost pursuant to 16 V.S.A. §1432;

(m) practices that ensure compliance empty with supporting and protecting the rights of married, pregnant, or parenting students pursuant to 16 V.S.A. §1073;

(n) practices that permit students with life-threatening allergies or with asthma to possess and self-administer emergency medication in accordance with 16 V.S.A. §1387;

2223.3.5 Other Required Activities

We suggest modifying 2223.3.5(e) to include the applicable statutory citation, as follows:

(e) comply with legal requirements of 16 V.S.A. § 568 concerning nondiscriminatory school branding;

For consistency of style with the rest of this section, we suggest modifying 2223.3.5(j), as follows:

(j) adopt policies related to record maintenance and retention that, at minimum, provide for the timely and confidential disposition of student records in the event of the school's closure; and

2223.4. Annual Compliance Assurance

VISA supports an annual compliance assurance, particularly as it relates to compliance with the SBE's anti-discrimination regulations and related state and federal laws. **Under our bylaws, VISA requires its member schools to adhere to anti-discrimination laws and regulations, *without qualification*, as a condition of membership in our organization. We oppose state approval or renewal of any school that is unwilling to adhere to anti-discrimination laws and regulations.** We view annual compliance assurance as an important tool to protect students and staff, and safeguard the integrity of our education system.

Our members are eager to demonstrate their steadfast commitment to Vermont's anti-discrimination regulations.

The proposed rule could be enhanced with the following changes:

- Specify that the submission of the annual assurance and associated supporting material will be handled electronically.
- Include a transition provision, which would require the AOE, within 60 days of the rule taking effect, to:
 - develop necessary assurance procedures, systems, and electronic forms
 - deliver online training and documentation to approved independent schools

- establish a deadline, not less than 30 days and not more than 90 days from the date the rule takes effect, for independent schools to submit an initial compliance assurance
- notify all approved independent schools of the compliance assurance requirement and the submission deadline via email and by posting on the AOE website
- Specify that the above initial compliance assurance would apply to the 2023/2024 school year, along with an assurance that the school intends to remain in full compliance for the 2024/2025 school year
- Specify the following deadlines for subsequent years (i.e. following the initial compliance submission during the transition period):
 - January 15th - AOE shall publish compliance assurance form and notify all approved independent schools (via email and posting on AOE website)
 - March 15th - approved independent schools must submit compliance attestation for current school year, along with an assurance that the school intends to remain in full compliance for the following school year
- In the case of any independent school that has failed to submit an acceptable compliance assurance form by the deadline, we recommend:
 - that the AOE notify the school via email AND by certified mail, with return receipt requested, and provide 10 business days - from the date the notification was sent - for the school to come into compliance.
 - that the notification includes a clear and prominently displayed statement that the school may lose its approval status if action is not taken.
- Require the AOE to maintain and regularly update a register of approved independent schools and their compliance assurance status, which shall be a public record.

2224.1.1. Standard Application

We suggest that the following sentence be modified to clarify that information solicited through the application process must be directly related to a requirement under these rules:

“At a minimum, the application shall solicit the information containing or describing the school’s basic information, mission statement, enrollment policy, curriculum, methods of instruction, evaluation procedures, special services provided, governance information, evidence of compliance with local, state, and federal laws and regulations, staffing and instructional strategies, fiscal practices and evidence of financial capacity, operational information, appropriate assurances or disclosures required under these rules, a request to receive public funds, if applicable, and ~~any~~ other information required under these rules for ~~that~~ the Secretary, Board, or review committee ~~may deem important in considering to determine~~ whether the school meets requirements for approval.”

Section 2227. Recognized Accrediting Agencies

Given the fact that Vermont law prohibits new approvals of independent schools, VISA anticipates that there will be limited demand for new accreditations of independent schools. The two accrediting bodies (NEASC and AISNE) currently recognized by the SBE are well

established and respected for their comprehensive accreditation standards and practices. VISA recommends against the addition of a process and criteria to recognize additional accrediting organizations; we ask that the SBE limit recognition to NEASC, AISNE, and their successors (e.g. in the event of a name change, merger, or acquisition).

With limited demand for additional accreditation options, focusing on the two existing recognized accreditors will maintain confidence in the external accreditation process and eliminate the risk of a less rigorous accreditor becoming recognized. Our member schools and the families they serve place a high value on the quality and familiarity of accreditation provided by the two organizations who are already recognized. We do not want to see this value diminished or diluted in any way.

General Comments Regarding Accountability

We are aware of comments received by the SBE suggesting that the current and proposed independent school approval rules provide insufficient accountability, particularly in the context of publicly funded students. We respectfully disagree with these assertions and would like to point out that there are several areas within the current regulatory framework where approved independent schools are actually held to high standards of accountability (and in some ways, to a higher accountability standard than our public and recognized school peers).

- **State Level Review & Approval by SBE** - all Vermont approved independent schools are subject to review (following a review and recommendation by the AOE) by the SBE at least once every five years through a process designed to ensure compliance with the approval standards and regulations set forth in the rules. This is a transparent and accountable process, conducted in public by the SBE. This process does not apply to public schools or recognized schools.
- **State Level Complaint Process** - Rule Series 2200 provides a formal process that allows for members of the public to submit complaints to the AOE about an approved independent school, which can then trigger an investigation and action up to and including suspension and revocation of an independent school's approval status. Under existing rules, the AOE is required to maintain a register of complaints, which is a public document. Public schools are exempt from this process. There is no similar state-level process mandated in rules that permits members of the public to lodge a complaint about a public school directly with the AOE or SBE.
- **Approved Independent Schools Are Accountable to Local Communities** - The accountability of approved independent schools serving students tuitioned from non-operating public school districts ties directly back to 16 V.S.A. § 821 and 822. Under these statutes, voters have the power to choose whether they want their school district to operate a public school or pay tuition for their students to attend schools not operated by the district. This is a powerful accountability mechanism: if independent schools are not meeting the needs of the local community, the voters have the power to take control and end tuitioning with a simple majority vote of the electorate.

- **Approved Independent Schools Are Accountable to Students & Families -**
Fundamentally, approved independent schools are accountable to the students and families they serve. Students who attend our schools do so by choice. Inevitably there are circumstances where a student and/or family decides that one school better serves the needs of a student than the one he or she attends. This is not uncommon; in fact, our member schools often serve families with siblings attending different independent schools. But when there is a systemic problem with a particular school the impact on enrollment typically yields corrective action before the underlying issue becomes a regulatory compliance issue.
- **Special Education Accountability Through IEP Process -** students attending approved independent schools (including therapeutic schools) on an Individualized Education Plan (IEP) are held accountable to that student's individual needs through the robust IEP process by the IEP team, which includes the local LEA.

Conclusion

We hope you found these comments helpful. We would like to point out that the SBE recently adopted a major revision to Rule Series 2200, the final elements of which just took effect in July of this year. This was a multi-year effort that involved input from multiple stakeholders and other members of the public. Given the recency of those updates, and the magnitude of change that we are still adapting to, we would respectfully request that you reject any last-minute proposals for significant changes during this rulemaking, particularly any proposals that were already considered during the last update to Rule Series 2200.

Our member schools remain committed to working in partnership with the local communities we serve and our peers in the public school system to address the significant needs of students in the areas of literacy, numeracy, homelessness, food insecurity, infrastructure, and mental health, as well as promoting anti-racist, inclusive and welcoming environments.

We appreciate your service to our state and your commitment to Vermont students. Please feel free to contact us if we can be of any assistance as you move forward with your rulemaking process.

Sincerely,

VISA Executive Committee

Tim Newbold, President (Village School of North Bennington)
Jennifer Zaccara, Vice-President (Vermont Academy)
Tamara Mount, Treasurer (Hilltop Montessori School)
Andrew Lane, Secretary (The Sharon Academy)
Drew Gradinger (Kindle Farm School)

Sharon Howell (St. Johnsbury Academy)
Colin Igoe (Long Trail School)
CJ Spirito (Rockpoint School)
Mark Tashjian (Burr and Burton Academy)



Vermont
Superintendents
Association



vermont **nea**
THE UNION OF VERMONT EDUCATORS

TO: State Board of Education

FROM: Vermont School Boards Association, Vermont Superintendents Association,
Vermont Principals' Association and Vermont-NEA

RE: Public Comments - Rule Series 2200

DATE: December 4, 2023

The Education Equity Alliance, which is comprised of the Vermont School Boards Association, Vermont Superintendents Association, Vermont Principals' Association and Vermont-NEA, believes that all students who receive a publicly funded education should have the benefit of an education program that is inclusive, anti-racist, anti-discriminatory, equitable, and culturally responsive, as intended by the legislature.

Unfortunately, the Vermont State Board of Education's proposed changes to the Rule 2200 series fail to ensure that students at publicly funded private schools receive the **same** inclusive, anti-racist, anti-discriminatory, equitable, and culturally responsive education as students in public schools.

The same rules should apply to all schools that provide a publicly funded education to Vermont students. The State Board does not apply the same rules - it requires public schools to follow the Rule 2000 Series (Education Quality Standards) and private schools, including those that receive public tuition, to follow the Rule 2200 Series (Independent School Approval Program). The Education Equity Alliance does not support two separate systems for Vermont's publicly funded students, one which provides comprehensive, strong quality standards for public schools and another which contains less comprehensive and weaker quality standards for private schools that receive public tuition.



EDUCATION EQUITY
ALLIANCE

1. The State Board asserts that it is applying the same requirements in the two sets of rules but that is not factually correct. This memorandum outlines major differences we have identified between the Rule 2000 Series and the Rule 2200 Series and requests that those differences be corrected.
2. The State Board's proposed changes to the Rule 2200 Series differ from the Rule 2000 series in the following ways:
 - a. Definitions of the same words differ in the two sets of rules - they should be the same:
 - i. The word "Discrimination" is defined differently in 2200 and 2000, resulting in private schools being held to a less stringent standard
 - ii. The term "Restorative Practices" is defined differently in 2200 and 2000
 - b. Definitions of the following words are included in the Rule 2000 series and omitted from the Rule 2200 series, pointing to areas that are not covered by the Rule 2200 series:
 - i. "Academic record"
 - ii. "Career and technical education"
 - iii. "Education support team"
 - iv. "Educational technology"
 - v. "Educator mentoring"
 - vi. "Equity or equitable"
 - vii. "Evidence-based"
 - viii. "Needs-based professional learning"
 - ix. "Personalized learning plan"
 - x. "Proficiency based learning"
 - xi. "Proficiency based graduation requirements"
 - xii. "Racial discrimination"
 - xiii. "Technology integration"
 - xiv. "Transcript"
 - xv. "Transferable skills"
 - xvi. "Universally designed instruction"
 - c. Complete sections of the Rule 2000 Series are missing from the Rule 2200 Series
 - i. Professional Learning for public schools is covered in Rule 2121.3 and is missing entirely from the 2200 Series for private schools. This means there is no requirement for private schools to provide ongoing professional learning, resources and supports for professional staff to:

1. create and strengthen an anti-racist, inclusive and culturally and linguistically responsive school experience for all students and
 2. cultivate the knowledge, skills and practices required to identify and remediate prohibited discrimination
- ii. Access to Instructional Materials in public schools is covered in Rule 2122.2 and is missing entirely from the Rule 2200 Series for private schools. This means that private schools are not required to:
1. Develop and maintain a collection of accessible print, multi-media alternate format (e.g. high quality audio files, electronic braille, and other forms of E-texts) resources
 2. Ensure that curriculum is supported by accessible digital, multi-media, and alternate format resources
 3. Ensure that students, teachers, administrators and paraprofessionals have access to a an organized collection of digital, multi-media, alternate format and print materials sufficient and appropriate to support all students in meeting or exceeding the current state and national standards at no cost to the student
- iii. Local Comprehensive Assessment Systems for public schools (including specifics related to English Language Learners) are covered in Rule 2123 and are missing entirely from the Rule 2200 Series for private schools. This means that private schools are not required to implement a local comprehensive assessment system that establishes annual protocols and timelines for assessing the progress and needs of English Language Learners beginning at the point of enrollment and continuing at designate intervals during the year
- iv. Reporting of results for public schools is covered in Rule 2124 and is missing entirely from the Rule 2200 Series for private schools
1. reporting requirements are robust in Rule 2124 for public schools and offer transparency for areas related to equity, including:
 - a. Academic performance
 - b. Graduation, dropout, retention and attendance rates
 - c. Enrollment in and completion of flexible pathways and career and technical education
 - d. Social and emotional wellbeing

- e. Discipline, including suspensions and detention actions
 - f. Incidents of hazing, harassment and bullying
 - g. Referral to and participation in programs for students with disabilities, including Section 504 and special education
 - h. Enrollment in and completion of flexible pathways, career training, advanced placement courses and extracurricular activities
2. Rule 2124 requires public schools to report on disaggregated data at least by school and according to student subgroups, including students identified:
- a. As economically disadvantaged
 - b. From major racial and ethnic groups
 - c. As having a disability (includes reporting on students with Section 504 plans and students with individualized education programs, separately and in total)
 - d. With limited English proficiency
 - e. As students who are publicly funded to attend an approved independent school
3. Additional Areas of Concern in Proposed Changes to Rule 2200 Series
- a. Rule 2223.4 includes a vague and broad annual compliance assurance that "each approved school shall attest to continued compliance with applicable requirements of this rule and federal and state law on an annual basis."
 - i. the assurance language in Rule 2223.4 should emphasize nondiscrimination - it is not mentioned
 - ii. rule 2223.4 is weak on accountability
 - 1. If a school fails to submit a compliance form, the rules require a lengthy investigation and process that gives the State Board discretion to "revoke, suspend or impose conditions on approval" of a private school only if the Board determines that the school "intentionally violated" subsection 2223.4. Is "intentional violation" the correct standard to be using?
 - 2. Rules 2226.2/2226.3 (Due Process and Investigations) do not provide for notification of LEAs when private schools are under investigation or allow LEAs to withhold public tuition during the investigation.

3. LEAs should be notified of any investigation of a private school receiving taxpayer funds and have clear authority to protect public tax dollars, up to and including withholding tuition payments pending resolution of the investigation.
- b. Proposed Rule 2224.2 allows an abbreviated approval process for accredited schools.
 - i. Under rule 2224.2.1, accredited schools do not need to attest to compliance with 2223.3.3 (Instruction, Faculty and Special Services) or 2229 (Approval to Receive Public Tuition; Special Education Approval) in their application and review process.
 - ii. Without such attestation, it is unclear how compliance with these critical equity requirements will be measured and enforced. Please consider strengthening this section.
 - c. Proposed Rule 2223.5(f) requires private schools to provide data related to assessments of publicly funded students to the Secretary and encourages them to provide the data to local education agencies
 - i. Private schools should be required to provide assessment data to local education agencies as well as the Secretary
 - d. Proposed Rule 2223.5 states that information provided by a school under the Rule 2200 series that is not already in the public domain shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential
 - i. Information provided by schools under the Rule 2200 series should not be exempt from the Public Records Act
 - ii. Making Information provided by schools under the Rule 2200 series “confidential” is non-transparent. When private schools are receiving public funds, the public should have the right to access information provided by those schools under the Rule 2200 series.
 - e. Proposed Rule 2224.5 allows extension of approval of a school completing a timely application for further approval until the State Board acts on further approval. This leaves the timeline wide open and the result is extensions that last for years. This provision should be eliminated or time constraints should be added.
 - f. Proposed Rule 2224.7 should include a reasonable deadline for the Secretary to process applications. Currently, there are applications that are taking over two years to process.
 - g. The investigation process in proposed Rule 2226.2.2 is prolonged and drawn out.
 - i. The process should be shortened by allowing a complainant to file a complaint directly with the State Board. Additionally, provisions

- should be added requiring notification of LEAs when private schools are under investigation and allowing LEAs to withhold public tuition pending resolution of the investigation.
- ii. Rule 2226.2.2(g) should be modified to require the Secretary to maintain a public register of all complaints received (rather than just those that result in probation or a formal investigation)

Thank you for the opportunity to provide written comments on the State Board's Rule 2200 series.

Taconic and Green Regional School District
Bennington-Rutland Supervisory Union

December, 2, 2023

Dear members of the Vermont State Board of Education,

This letter is being submitted on behalf of the Taconic and Green Regional School District and Bennington-Rutland Supervisory Union Boards, and is in response to The State Board of Education's request for comments on the proposed amendments to the Independent School Program Approval Rules designed to incorporate the principles and goals of Act No. 1 (2019).

The Taconic and Green Regional School District (T&G) is one of three public school districts operating under the Bennington-Rutland Supervisory Union (BRSU). No district in the BRSU operates a school serving grades 9 -12. All our districts have operated with school choice for grades 9 -12 for our entire history. Our districts pay tuition for grade 9 – 12 students, to schools chosen by our families, at approved rates, and subject to those schools meeting the requirements set by the State of Vermont for qualification to receive public tuition. Because of this structure, our districts have always had a keen interest in the regulatory structure in place for independent schools to qualify to receive public tuition dollars.

The T&G and BRSU have strongly supported and appreciated the changes made to Rule Series 2200 in recent years. These changes have helped Rule Series 2200 to be more consistent with the values considered important by our school boards and our communities.

We also strongly support the State Board of Education's work to incorporate the principles and goals of Act No. 1 (2019) into Rule Series 2200. Again, we consider these changes to be important to maintain consistency with the values and principles our communities consider to be important.

We believe it is important to note that this statement on the values important to our communities is not speculation. We included a question to gauge community views in our 2023 Ballot – and over 90% of voters indicated support for the statement copied at the end of this letter, which we believe to be consistent with the recent and proposed changes to Rule Series 2200.

Our school boards look to Rule Series 2200 to provide broad and stringent tests that must be met by independent schools for them to qualify as options for our families to educate their children with tuition being paid by our districts under Vermont's long-standing school choice structure.

We fully support the provisions of Act No. 1 (2019), and we believe that the logical approach for its application to independent schools is the rule making process and updates to Rule Series 2200.

We are aware that there have been arguments that implementation of Act No. 1 as it relates to independent schools should follow some alternate course. Our districts believe that attempting to require our nonpublic schools to operate entirely the same way as public schools is impractical on the basis of governance differences alone. One of the items voters overwhelmingly supported in the ballot

item quoted below is "The electorate supports the current structure of independent schools having autonomy over their governance and operations within the current regulatory framework."

Therefore, we consider it to be fundamentally logical to maintain and update the parallel regulatory structure we have long relied upon to ensure that independent schools to which we pay tuition must meet strict qualification criteria. Our boards' expectation from Rule Series 2200 is that it provides our districts with a mechanism to ensure that the students we tuition to any independent schools under our school choice program receive the same quality of education we strive to provide in our schools, in an environment consistent with that we strive to maintain in our own schools.

We thank the State Board of Education for its work to continue to improve Rule Series 2200. This is particularly important work for districts like ours that have a long history of partnering with independent schools to educate our kids. A strong Rule Series 2200 helps to ensure a level playing field for the schools serving our children.

Best regards,

Herbert Ogden, Chair, Taconic and Green Regional School District

Jim Salsgiver, Chair, Bennington-Rutland Supervisory Union

cc: T&G/BRSU local legislators

2023 Taconic and Green Regional School District Ballot question (received 90.7% support):

Shall the Taconic & Green Regional School District advise the School Board, the Vermont General Assembly and Governor that:

1. Because our district does not operate a public high school, students have the opportunity to choose from a variety of public and independent high school options;
2. The electorate does not support the public funding of any school that discriminates against students or staff on the basis of race, creed, color, national origin, disability, marital status, sex, sexual orientation, or gender identity;
3. The electorate supports the current structure of independent schools having autonomy over their governance and operations within the current regulatory framework. This structure of oversight has enabled our districts to make high school education available, as required by the State of Vermont, while maintaining confidence that the schools serving our students provide a high quality of education; and
4. The electorate opposes efforts to change the current structure in a way that eliminates educational opportunities made possible by our current practice of high school choice. The electorate believes our current local educational system, in a great example of Vermont traditions, has evolved within this current structure, through a high level of community commitment and an appropriate exercise of local control, to provide high quality, equitable educational opportunities for our students.



Mary Newman
Head of School

The State Board of Education
1 National Life Drive, Davis 5
Montpelier, VT 05620-2501

From: Mary Newman, Head of School, The Sharon Academy

Subject: Feedback on Proposed Changes to Rule Series 2200

On behalf of The Sharon Academy, I am writing to express our strong support for the proposed updates to Rule Series 2200. These changes reflect a thoughtful and balanced approach to evolving educational standards, and we are particularly gratified by the incorporation of recommendations from the Act 1 Working Group, which focus on ethnic and social equity studies.

As an institution with a significant number of marginalized students, we recognize the importance of these updates in promoting a more inclusive and equitable educational environment. The proposed rules align well with our commitment to continuous development in meeting the diverse needs of our student body.

We also welcome the effort to reorganize the rules for improved clarity and accessibility. This makes it easier for schools like ours to understand and adhere to the guidelines, ensuring better compliance and implementation.

The requirement for approved independent schools to provide annual compliance attestations is a positive step towards maintaining high educational standards and accountability. It is crucial for independent schools to remain in compliance with state and federal rules and regulations, and this annual attestation process reinforces that commitment.

Additionally, we support the establishment of a process for external accreditation agencies to be recognized as accreditors by the State Board of Education. This helps in maintaining the quality and integrity of independent schools.

While we appreciate the significant revisions made to Rule Series 2200 a few years ago, we believe that the current proposed updates are beneficial additions. We would like to emphasize the need for a period of stability following these updates, allowing schools to fully integrate and adapt to these changes.

Lastly, we would like to extend our thanks to the State Board of Education for their diligent work and for providing a platform for public input. This collaborative approach is essential for the continuous improvement of our educational system.

The Sharon Academy
Post Office Box 207, Sharon, VT 05065
802-763-2500
www.sharonacademy.org

Mary Newman
Head of School

We look forward to the successful implementation of these updates and are eager to continue contributing positively to Vermont's educational landscape.

Thank you for considering our feedback.

Sincerely,

Mary Newman

The Sharon Academy
Post Office Box 207, Sharon, VT 05065
802-763-2500
www.sharonacademy.org

Good afternoon. My name is Laurie Boswell and I serve on the board of trustees at Lyndon Institute. My entire professional life has been spent in K-12 schools and my comments today are on behalf of Lyndon Institute.

Two years ago, substantial revisions to Rule Series 2200 were made in response to Act 173. It is my understanding that the State Board of Education now seeks to make additional changes for purposes of clarity and inclusivity of stakeholders' perspectives. I would like to speak in support of two proposed changes.

Last school year a group of Lyndon faculty, staff, trustees, and parents worked collaboratively to develop a diversity, equity, and inclusion statement. I believe the DEI statement was overdue, though ultimately the process allowed for important dialogue, listening, and understanding to occur. It is because of this work I can assure you Lyndon Institute supports the draft recommendations put forth by the working group on ethnic and social equity. Certainly, all students should have access and opportunity for learning in a welcoming, inclusive, bias-free environment. Moreover, Lyndon Institute supports the recommendation that Vermont independent schools be free of discriminatory practices and that independent schools attest to such annually.

These two recommended changes are in alignment with the values, practices, and culture of Lyndon Institute. Minor adjustments to Rule Series 2200 are appropriate as the full scope of revisions are still being integrated into practice.

However, I am concerned about the slippery slope I fear may be coming. I want to be clear that as a trustee at Lyndon Institute, I do not support any effort to unilaterally apply the full set of Education Quality Standards to independent schools. While all schools are in the business of educating the students they serve, public and independent schools have different governance structures. These structures do not advantage nor disadvantage either school model with respect to a school's obligation to provide a high quality, equitable education for all students they serve.

I therefore encourage you to proceed slowly with proposed changes to Rule Series 2200 as you work on behalf of Vermont students. Thank you.

Good Afternoon,

Thank you for your very thoughtful and intentional work to date on behalf of our students in Vermont. Additionally, thank you for a wonderful session today (re: public hearing). The public hearings are a great place to ensure all voices can have a platform for comment.

Stratton Mountain School supports the updates to Rule Series 2200. Specifically those ethnic and social equity study recommendations of the Act 1 working group to independent schools. Furthermore, Stratton Mountain School supports requiring an annual compliance attestation as a mechanism to keep independent schools free of discriminatory practices, but we oppose efforts to unilaterally apply EQS rules to independent schools.

Respectfully,
Carson

Carson A. Thurber (he/him)
Head of School ▪ Stratton Mountain
School

7 World Cup Circle, Stratton Mountain,
VT 05155

www.gosms.org

To: Chair Jennifer Samuelson and members of the VT State Board of Education

From: Amanda Garces and Mark Hage

Date: Oct 15, 2023

Re: Public comment: Rule 2000 – State Board Memo, Alignment of Select Language in Both Sets of Proposed Rules 10/12/2023

Dear Chair Samuelson and members of the State Board:

This is a formal response to your memorandum of October 12 (“*Alignment of Select Language in Both Sets of Proposed Rules*”) on behalf of the State Board of Education. Our concerns, questions, and recommendations are informed by nearly four years of research, dialogue, and deliberation as co-chairs of the Act 1 Working Group and by extensive interactions with many Vermonters who followed and commented on our work products and processes.

At the outset, we must state emphatically that the Working Group was unanimous in its endorsement of the “Statement of Purpose” and the definition of “discrimination” presently found in the revised EQS Manual. We oppose any substitution of the proposed EQS language in your memorandum with that in the same memorandum from the proposed 2200 Rules. We also urge you **to extend the public comment period for the rulemaking process** to accord members of the Act 1 Working Group and those who endorse the EQS Manual in its current iteration an opportunity to testify and submit written comments about the language substitutions you are weighing with respect to the manual and the 2200 Rules.

In your memorandum, Ms. Samuelson, you write:

When the Board approved the revised language in the 2200 Series Rules on August 18, 2023, it was clear that its commitment to adopting the same substantive language in both sets of rules for Act 1 related amendments had not changed and that it intended to refer to the revised language in the 2200 Series Rules when it considered final updates to the EQS Rules.

Since the public comment periods for these sets of rules [EQS Manual and 2200 Rules] will not overlap as the Board had hoped, I feel it is important to expressly point out the exact language revisions that were unanimously approved by the Board in the 2200 Series Rules. In keeping with the Board’s stated goal to promote consistency between the rules, the counterparts identified below will be revisited by the Board before it proposes the final EQS Rules.

The pursuit of consistency between these different rules should never come at the cost of substantively weakening or diluting proposed changes to the proposed **EQS Manual** that define discrimination, expressly prohibit it, and expand protections against it. That is what will come to pass, we fear, if the 2200 Rules language in the October 12th memorandum replaces its counterparts in the EQS Manual. Respectfully, the State Board must not let that happen.

Proposed Statement of Purpose: 2200 Rules

The Board believes that any distinction, exclusion, classification, restriction or preference based on any ground, such as race, ethnicity, skin color, sex, sexual orientation, gender identification, language, religion, political or other opinion, disability, national, social or geographic origin, citizenship or immigration status, income or property, birth or other status, which has the purpose or effect of denying or impairing the

recognition, enjoyment, or exercise of fundamental rights and freedoms in the political, economic, social, cultural, civil or any other field should be carefully considered and rejected if it results in unlawful discrimination or interferes with the delivery of effective, available, and equitable educational opportunities. The Board recognizes that discrimination is practiced by individuals and groups, and it is expressed systemically through the structures, laws, practices, and policies of public and private institutions, employers, and organizations.

1. This language opens with a declaration of what the **State Board “believes”** rather than with an unequivocal statement that directs independent/non-public schools to anchor their policies and practices to a set of anti-discriminatory values. Values inspire and shape standards of behavior and action. Stating what the State Board “believes,” however well intended, misses the point. What is needed is the exercise of your rulemaking authority to clearly define discrimination and the forms it takes, and to stipulate that public and independent/non-public schools must identify and combat discriminatory behavior and policies so that all Vermont students can achieve equal access to a quality education.
2. Building off this first point, the proposed 2200 Rules language, unlike that in the proposed EQS Manual, does not include the word **“prohibit.”** This is a glaring and fundamental omission, and it runs counter to anti-discrimination policies adopted by most public and private institutions. We suggest you re-read the extensive supplemental report we produced in 2022 at the State Board’s request. It contains commentary and links to research that influenced and gave shape to our engagement with the question of what “discrimination” means and how it should be understood by our public schools and the local communities they serve.
3. The proposed EQS Manual’s Statement of Purpose also identifies the “student” as the primary focus of anti-discrimination policies and actions. **There is no mention of “student” or “students” in the highlighted section above in the proposed 2200 Rules.**
4. A public school’s mission is not to “interfere” with discrimination or to complacently accept discrimination that state and federal law in their present state cannot be deployed to challenge and stop. Our public schools must do their utmost to prohibit discrimination in all its manifestations, and swiftly rectify its deleterious consequences, which are often traumatic for victims and destructive of social and educational relationships. We must be committed to these objectives to ensure that no child is denied a high-quality education, personal security, and dignity. This is why we revised the proposed EQS Manual as we did.

As you know, the Act 1 Working Group added language to the proposed EQS Manual that increased the categories of anti-discrimination protection, building on the foundations of state and federal law. We offered this explanation:

With this language, the Working Group asserts the need to broaden the categories of protection against discrimination in both public and approved independent schools beyond what is stipulated in Section 2113. These new categories, to be clear, reflect the personal, educational, and professional experiences of our members, their children and families, and their communities, and they are plainly unacceptable barriers to the attainment of an equitable, antiracist, anti-discriminatory, culturally

responsive and inclusive education. "Religion" was added because "creed" in Section 2113 is a term many do not understand in this context as being inclusive of and protecting religious practices and beliefs or religious minorities. "Religion," on the other hand, is a term most people do understand.

It must be restated as well that the proposed EQS Manual's Statement of Purpose explicitly denotes that there is no "private right of action." This is a longstanding provision in the manual that shields school districts from incurring legal liability arising from the manual's rules, and this covers the broader definition of discrimination.

5. The list of anti-discrimination categories in the proposed 2200 Rules largely mirrors that in the proposed EQS Manual. But the former's protocol on when it is permissible or necessary to act against discrimination is narrowly constricted by virtue of its deference to the parameters of anti-discrimination law at the state and federal level. We also find key terminology troublingly vague.

The rules stipulates that the evidence and effects of discrimination on the multiple grounds cited "should be carefully considered and rejected if it results in unlawful discrimination or interferes with the delivery of effective, available, and equitable educational opportunities." There is no definition of "carefully considered," "rejected" or "interferes" in the proposed 2200 Rules. Since the word "prohibit" is not present, it is reasonable to infer that "reject" and "interfere" have a different meaning or purpose than "prohibit" and, therefore, may represent by design a lower bar of accountability. *Why did you resort to these terms, when you could have simply added an unambiguous prohibition on discrimination?*

We want to expand on our objection to the concept of interference in the proposed 2200 Rules. The Act 1 Working Group, as previously noted, expanded the scope of anti-discrimination protections in the proposed EQS Manual because of well-documented forms of discrimination that afflict our students today and, regrettably, are not expressly prohibited by law. Students from low-income families, for example, are not a protected class, but familial poverty can and does generate discrimination. The same is true for children who face discrimination because of their immigration status or because their first language is not English. But the State Board knows this, which is why, we presume, you inserted "...or *interferes with the delivery of effective, available, and equitable educational opportunities.*" This new language, however, will not serve as a potent second firewall against discrimination where statutory protections do not yet exist.

The 13th Amendment to the U.S. Constitution and historic civil rights legislation in the 1960s and beyond were not enacted to "interfere" with slavery, racism, and other forms of discrimination. But to end their immoral, exploitative, degrading, violent, and socially pernicious consequences. Meriam-Webster defines "interfere" this way: "to slow or stop (something); to make (something) slower or more difficult." So, how should we understand "interfere" in the context of an assessment of the presence and effects of discrimination on the delivery of educational opportunities in independent/non-public schools? In other words, what are you requiring precisely?

Turning again to Meriam-Webster's definition of "interfere," are you saying independent/non-public schools must undertake anti-discrimination interventions if certain behaviors, policies, or actions "stop" the delivery of educational opportunities...or if they "slow" the delivery of them...or if they just

make that delivery “more difficult”? Additionally, placing the accent here on the “*delivery of effective, available, and equitable educational opportunities* as a standard for fighting discrimination, rather than on how discrimination affects (directly and indirectly) the wellbeing and aspirations of **students**, is misguided. It’s not hard to imagine scenarios where a particular lesson plan or educational program is **delivered** effectively, made **available** to all students, and is comprised of constituent parts and objectives that are **equitable**. And yet discrimination can still be present in multiple ways and harm **students** (or potentially local families and school staff).

Every child and their family should know and trust that their public schools are sincerely and passionately committed to protecting them from discrimination. This requires, at a minimum, a categorical standard of prohibition against discrimination. The absence of such a prohibition in the 2200 Rules Statement of Purpose is a profound flaw and will send the wrong message to Vermonters and their children. If you elect to stay with it for the proposed 2200 Rules, please do not endorse it for the EQS Manual.

Definition of Discrimination: 2200 Rules

“Discrimination” is intended to describe any exclusion, restriction, or preference based on any protected class consistent with state and federal law that has the purpose or effect of denying or impairing the recognition, enjoyment, or exercise of an individual’s fundamental rights. Discrimination is practiced by individuals and groups, and it is expressed systemically through the structures, laws, practices, and policies of public and private institutions, employers, and organizations.

Definition of Discrimination: EQS Manual

“Discrimination” means any distinction, exclusion, classification, restriction or preference based on any ground, such as race, ethnicity, skin color, sex, sexual orientation, gender identification, language, religion, political or other opinion, disability, national, social or geographic origin, citizenship or immigration status, income or property, birth or other status, which has the purpose or effect of denying or impairing the recognition, enjoyment or exercise of fundamental rights and freedoms in the political, economic, social, cultural, civil or any other field. Discrimination is practiced by individuals and groups, and it is expressed systemically through the structures, laws, practices, and policies of public and private institutions, employers, and organizations.

1. To state the obvious, “discrimination” has a meaning. To remove the verb “mean” in the proposed 2200 Rules and replace it with “intended to describe” strips the definition of the concreteness, emphasis, and simplicity that the verb “mean” conveys. The verb “mean” is in the proposed EQS Manual definition and we want it to remain there.
2. The proposed 2200 Rules definition of “discrimination” is, again, too narrowly construed, grounded as it is to “protected classes” in state and federal law. As stated earlier, we owe it to Vermont’s students in our public schools to protect them from discriminatory harm in all circumstances, even when state and federal law do not provide us with the tools to conduct anti-discrimination interventions outside the parameters of “protected classes.” In time, in the ongoing

struggle to overcome discrimination as defined in the proposed EQS Manual, we are confident every public and private institution will follow the lead of our public schools and their local communities. Thus, the language above in the proposed **EQS Manual**, in red, beginning on line two through most of line 4, delineates categories of discrimination that must be understood, confronted, and stopped by our public schools, local communities, and people of conscience. This should be communicated in no uncertain terms in the proposed EQS Manual.

3. The language in red in the proposed **EQS Manual**, including that on lines 5-6, which is absent in the proposed **2200 Rules** definition of “discrimination,” is found in the proposed **2200 Rules** “Statement of Purpose,” together with a reference to discrimination. Why is it acceptable in the proposed 2200 Rules Statement of Purpose but not in its definition of “discrimination”?
4. We do not understand why “caste” is not in the proposed **EQS Manual’s** definition of “discrimination,” since it is in the manual’s “Statement of Purpose.” We assume an oversight of some kind, perhaps on our part, explains this. We ask, please, that you add it to the proposed **EQS Manual’s** definition.

Candidly, the omission of “caste” from the proposed **2200 Rules** is a mistake. Caste discrimination is not confined to Southeast Asia. It is a serious problem in the United States and worldwide, as we noted in a report to the legislature and in another to the State Board. Cal State Universities, the largest public university system in the country (23 campuses), added caste to its anti-discrimination policy in 2022, following the lead of the city of Seattle. Vermont’s public and independent/non-public schools should add their name to this socially responsible and educationally constructive initiative.

Conclusion

In closing, we implore the State Board not to alter the wording of “Statement of Purpose” or the definition of “discrimination” in the proposed EQS Manual. We reiterate, too, the importance of extending your rulemaking’s public comment period so that the matters delineated in your memorandum of October 12 and in this letter can be addressed in a fair and transparent manner by those who invested so much time, hope, reflection, and faith in the revision process for the proposed EQS Manual and educational projects related to it.

Thank you for receiving and giving due consideration to our commentary and recommendations.

Sincerely,

Amanda Garces, former Chairperson, Act 1 Working Group (Amanda.Garces@vermont.gov)

Mark Hage, former Co-Chairperson, Act 1 Working Group (mhage@vtnea.org)

To: Chair Jenny Samuelson and members of the VT State Board of Education
From: Rebecca Holcombe, current state representative, former VT secretary of education
Date: Oct 3, 2023
Re: Public comment: the state board must ensure equitable opportunity in private schools funded by vouchers from the public education fund

Thank you for giving your time to serve the state of Vermont and our children. I know you care about the state and its children, or you would not give of your time this way.

As you reopen the 2000 series (and subsequently, the connected 2200 series), I am writing to respectfully request the state board of education to:

1. apply all the same education quality rules and standards to both public schools and to private schools that are paid tuition vouchers that are funded by the public education fund
2. require open enrollment in any private school that receives funding from the public education fund.
3. require publication of the same performance data for taxpayer-funded private schools that is published for public schools, including assessment scores, and
4. ensure state rules comply with federal law.

As the state board has learned, the 2000 series is linked to the 2200 series, so one cannot be treated without consideration of the other. Of immediate concern: the rules as proposed are out of compliance with federal and state law. Moreover, they fail to protect the right of publicly-funded students in private schools to equitable education opportunities.

A. **The state board must comply with federal law for students with disabilities, and the proposed rules do not.** Federal regulations related to implementation of the federal Individuals with Disabilities Education Act (IDEA) require that **students with disabilities that Local Education Agencies (LEAs) place in private schools must have access to the same standards of education that those students would have in a public school.** 34 CFR 300.146 requires the state educational agency (SEA) to ensure each child with a disability placed in or referred to a private school "is provided an education that meets the standards that apply to education provided by the SEA and LEAs." The state agency cannot do this if the state board rules set a lower standard for private schools as it currently does. As the state board, you are required by Vermont law to implement and continually update the standards for student performance and methods of assessment, and "The standards shall be rigorous, challenging, and designed to prepare students to participate in and contribute to the democratic process and to compete in the global

marketplace." 16 VSA 164(9). Allowing separate and lesser standards for private schools means students with disabilities who are placed in these private schools by their LEAs will not have access to the equitable opportunities to which they are entitled under federal law.

B. **The Vermont Constitution requires that the rules approved by the state board for voucher-funded private schools must be the same as the rules for public schools.** The rules you are now considering are an effectuation of statute. However, statute is an effectuation of our Vermont constitution. Article seven of our Vermont Constitution states "That government is, or ought to be, instituted for the **common benefit**, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single person, family, or set of persons, who are a part only of that community." As defined by the Brigham case, public education is instituted for the common benefit of all of us, and public education dollars should not be used for the particular advantage of any set of people who are a part only of our communities. Allowing any private school to receive tax dollars from the public education fund is simply a means to the end of equal public education. These public education tax dollars cannot be used for private purposes. Approving separate and unequal rules for taxpayer-funded private schools is a violation of this constitutional command.

C. **Since the 80's, the state board raised standards for public schools, but left students in voucher-private schools behind, under separate and lower standards.** This denies students in those private schools of equitable opportunity.

Vermont did not always have such separate and unequal standards for taxpayer-funded private and public schools. For example, in 1982, 16 V.S.A. § 906 was amended to read:

§ 906. COURSE OF STUDY

(a) In public schools, approved and reporting private schools and in home study programs, learning experiences shall be provided for pupils in the minimum course of study.

(b) For purposes of this title, the minimum course of study means learning experiences adapted to a pupil's age and ability in the fields of:

- (1) Basic communication skills, including reading, writing, and the use of numbers;
- (2) Citizenship, history, and government in Vermont and the United States;
- (3) Physical education and principles of health including the effects of tobacco, alcoholic drinks, and drugs on the human system and on society;

- (4) English, American and other literature; and
- (5) The natural sciences.

Note that at this time, the same standards were applied to all taxpayer-funded schools, both public and private. Please note also that the “minimum course of study” lacks references to outcomes related to technology, physical and data sciences, global studies, sex education, and 21st century skills. **A minimum course of study is not aspirational nor transformational; it is a floor. We need to raise the floor to raise performance.**

Since that time, on numerous occasions, the State Board of Education raised the bar for public schools by imposing more expansive standards for them. However, **it left students in private schools behind, including in settings with outdated and lower minimum expectations and no transparency,** as well as no clear right to due process for students (as opposed to schools) and fewer constitutional protections.

Same dollars, same rules used to be expected. It should be again, to protect children in these private settings, just as we do in public settings.

D. A lower, outdated, separate, and unequal standard for taxpayer-funded private schools disadvantages all students in these schools and undermines civic unity.

All the public school standards the state board has adopted over the years, all the emphasis on preparing youth for both civic and economic life: these are not just good ideas and worthy goals for our students. **They also are binding mandates for all students in schools funded by our public education fund, because our constitution requires equitable education opportunities for all students, including in the taxpayer-funded private settings the state allows to be maintained as an alternative to public schools in every town.**

Although standards for public schools have been raised and modernized, a dated “minimum course of studies” remains the standard (albeit a low one) for private schools that are funded by public education dollars in Vermont. This separate and unequal lower standard for private schools raises questions about whether students in those schools have access to the same rich, future-oriented and civic sets of experiences to which students in public schools are entitled. Consider:

1. Some schools choose to not teach a rich and representative history, in one case because –as the head of school said– their students are “mostly white.” This deprives students of the opportunity to learn about the richness and breadth of the

American experience, or even about how racism and antisemitism have been exploited to preserve advantage. Given this, how will students learn to live constructively in the more diverse communities of our future, or in a pluralist democracy?

2. How can children be prepared for a future in which comfort with math and science are highly valued, when private schools are not required to provide access to advanced math or physical science?
3. What is the long-term consequence, especially in more rural areas with lower population density, of allowing families to divert public education dollars to private schools that teach that: “God created the heavens and the earth in six literal days” or that “reject the man-made theory of evolution occurring over millions of years?” How does this not drive fragmentation and segregation based on religious identity?¹
4. What is the consequence of diversion of precious public education dollars, as we currently do, to schools that teach that “God created man and woman in His own image, and instituted marriage between one biological man and one biological woman (Gen. 2:18-24)” or that equate “homosexuality” and “bisexuality” to crimes like incest and bestiality? What is the consequence of public education dollars being used to promote one faith practice while denigrating another? What is the consequence of a system that allows diversion of public tax dollars to private schools that use a curriculum that suggests slavery is not so bad if it brought people to religion, as one popular curriculum does? **The consequences are not benign. These practices foster fear, hatred and violence against people who are entitled to dignity and protection under the Vermont constitution.**
5. How can children be prepared to collaborate in civic life when they are educated in private schools that make statements or require signing of pledges that are openly hostile or censorious towards entire groups of children, whether they are children with disabilities, children of other faiths, or people of a certain gender?
6. How can parents know if kids are prepared for college and careers, let alone civic life, if there is **no public data** on the performance of students in the private school their child attends?

E. Given the lack of transparency for voucher-funded private schools, parents, communities and the state have no way of evaluating whether students are receiving education that is comparable to that provided by public schools.

¹ It goes without saying that this is also unaffordable, because it compels taxpayers across the state to support more small schools at higher per pupil cost, to ensure kids have access to a school.

In addition to concerns about what students learn under the lower standards applied to private schools, taxpayers have no way of knowing how well they are learning in these environments. By law, these private schools are required to have voucher-funded students take the same tests administered to students in public schools. However, none of this data is public. When you look at the data snapshots on the VT Agency of Education website, you'll find data on multiple aspects of school quality for every public school in the state. However, **there is no information available at all for students enrolled at taxpayer expense in private schools, even at the district level.**

The last time private school data was available, the performance of the four historical academies on average was almost identical to the overall scores for all students. This was true despite the use by some of these academies of admissions procedures that in national research have been demonstrated to suppress enrollment of less-advantaged students, including economically disadvantaged students and students with disabilities.

No data is currently available for smaller voucher-funded private schools. **Despite numerous records requests of the AOE, some dating back to last winter, legislative colleagues have been unable to obtain data related to student performance in private schools.** I would be happy to share these requests with you.

However, I do have access to assessment data from prior to 2015 for the four biggest private academies- the historical academies. Three of these historical academies were incorporated by the legislature for the purpose of public education. Data for the historical academies that are now public schools are public. Data for the four historical academies used to be public. These data below are for Thetford Academy, Lyndon Institute, St. Johnsbury Academy and Burr and Burton. These data suggest the same variability we see in public schools also exists in independent schools that are funded by taxpayers. Other data I have seen suggests that performance in the smaller private schools is weaker on average than at the larger academies, something interested parties have been unable to explore because the AOE has not made this data available in response to requests.

For this table below, created in 2015, the AOE converted scores on the Smarter Balanced assessment to "z scores," which measure how much the average score on a given test in a given school varies from the average score for schools overall. This conversion gives us a way to compare across schools with different grade levels in terms of how they score compared to schools on average. Two of the historical academies scored above average and two scored below average for schools overall. As a group, their scores were basically identical to the average scores for the state overall.

School	Z score average (negative is below average, positive is above average)	Z score ranking (out of 269, higher = higher scoring)
Lyndon Institute	-0.59	55
Burr And Burton Academy	-0.23	109
Thetford Academy	0.44	174
St. Johnsbury Academy	0.60	193

Again, at present, test scores for taxpayer-funded students in private schools are **not available**. And, the scores of the private sector as a whole, separate from the public sector overall, have never been publicly reported. **This means taxpayers have no evidence to speak to the outcomes of students in taxpayer-funded private schools.** National data suggest that once researchers control for demographics, private schools underperform relative to public schools. Taxpayers have a right to know if that is true in Vermont as well.

F. The potential harm caused by lower standards for taxpayer-funded private schools outweighs any hypothetical risk of expecting them to provide an education that meets public education standards at a minimum.

Lobbyists and others have argued that requiring private schools that get public education dollars to follow public school rules would destroy those schools.

I am the elected state representative from Windsor-Orange 2, a district that is home to the only two private independent schools in the state that have committed to meeting Vermont's education quality standards. One of these schools, Thetford Academy, is the only private school in the state that has consistently committed to a public mission— to a role in lifting up the **entire community of children**, and not just some children— and it has done so while following public school rules and embracing open enrollment. As seen in the data above, it held true to this mission while posting above average results. It succeeded in doing so without excluding students and while embracing the challenge of providing a robust and representative curriculum, as do public schools. It did this while serving a disproportionate number of students with disabilities from neighboring towns, as many public schools do. Thetford Academy is proof that requiring taxpayer-funded private schools to follow the same rules and to be open-enrollment does not represent a threat to these schools. Thetford Academy is proof that private schools can be inclusive and still be excellent. In fact, **requiring other private schools to meet higher**

standards, practice open enrollment, and provide greater transparency would likely increase the quality of the private programs these schools offer at taxpayer expense.

At the most basic level, data on performance in private schools must be transparent. Public budgets are available for public review and vote, and all public school performance data is presented online in AOE data portals, alongside demographic information on students. **All schools that are ostensibly “meeting EQS” must have their performance data published through the same reporting systems as public schools.** This is how we can attempt to ensure that students in voucher-funded private schools have access to the same quality of opportunity as students in public schools.

F. Any system that uses public education dollars to fund private schools that cull students they don't want to serve is inherently unjust, and harms both students and inclusive schools on which most students depend.

A system that makes parents pay education property tax for private schools their children would not be allowed to attend is unjust. Taxpayer-funded private schools must also practice open enrollment. **So long as private schools choose their students using tools like test scores, grades, faith pledges, discipline records, mental health records, and interviews, they are curating enrollment – culling students and families they see as undesirable – in ways that are inconsistent with the Education Quality Standards and the state's constitutional commitment to giving every child a fair chance.**

Students who “aren't a good fit” because of political views, demeanor, disruption, lower grades or test scores, inability to pay additional fees, pregnancy, discipline, and so on can be excluded, even if these characteristics are correlated with eligibility for IEPs, religion, socioeconomic status or race. Even the existence of admissions devices like these has been proven to segregate students in a community, including based on wealth, race, identity and religion, and depriving our state's children of equal access and opportunities to build the habits of democratic citizenship. As I mentioned in previous public comment to the state board, this is why California prohibits charter schools from requesting information other than name and contact information prior to enrollment. Requesting more has been shown to suppress enrollment of marginalized students.

By permitting voucher-based sorting and culling, the State Board enables social and economic sorting and polarization. It fosters a parallel set of publicly-funded but unaccountable private institutions that undermine shared opportunity and a shared future. This segregation is particularly dangerous to the goals of giving everyone a fair chance and affordability in rural states like Vermont, because most Vermont communities do not have enough students to support more than one robust school at an affordable cost.

The lack of rules abets creation of local, private monopolies that may or may not serve a public purpose.

Data cleaned a few years ago by then Dep. Sec. Bouchey found that while 49% of students in tuition voucher towns attend public schools, 59% of students who are economically disadvantaged in these towns attend public schools, and 69% of students with disabilities in these towns are placed in public schools. This suggests that some **voucher towns depend on public schools operated by nearby towns to serve a disproportionate number of their disadvantaged students, while diverting tax dollars and advantaged students to private settings.**

As one proponent of vouchers told me a few weeks ago, “why should my kid have to go to school with those kids?” Our failure to require open enrollment means we will gut the public or inclusive schools on which the majority of Vermont children depend to fund private schools for people who don’t want their kids going to school with “those kids,” whomever those kids may be. Instead of fostering community, we are incentivizing people to opt out on common cause with their neighbors.

Given that district funding is now weighted to support students who are disadvantaged but tuition vouchers are not, Bouchey’s statistics above also suggest that our voucher system effectively overfunds private schools relative to public schools. Raising standards for private schools and requiring open enrollment would be a small step towards rectifying this injustice.

G. Vermont’s failure of expectation

To understand our current failure of expectation for taxpayer-funded private schools, consider the inverse. If these rules are truly so devastating to private schools that take public education dollars, why do we apply them to public schools? Why did some of the same people who now argue so vociferously to have private schools exempted from standards also work so hard to develop and apply these same rules and standards to public schools? What if we in the legislature said that “same dollars, same rules” should mean that public schools only have to follow the rules that apply to private schools? What if the state board decided that because the education quality standards are too onerous to impose on private schools, we should not impose them on public schools either? What would be the consequence?

Anyone who advocates for tight rules on public schools but lesser regulation on private schools that receive vouchers from the public education fund is enabling,

wittingly or unwittingly, overt regulatory capture to protect a private benefit at taxpayer expense. In contrast, public education is a public good.

In its decision in *Brown v. Board of Education*, the US Supreme Court concluded that denying student entry to the publicly-funded schools other students attend, because they are Black, “generates a feeling of inferiority as to their status in the community that may affect their hearts and minds in a way unlikely ever to be undone.” In Vermont, because of those who would turn public education into a private benefit, we now fund private schools that are openly homophobic and transphobic, which have refused to hire staff who they know are gay or lesbian, and who have suggested to the legislature that they should not have to teach a representative curriculum because their students are mostly “white,” as if racism has not played a role in preserving economic advantage throughout our history. We fund schools that reject students using tools and measures that are closely correlated with socioeconomic and disability status. We fund out-of-state private schools that don’t serve any students with disabilities or provide civil rights protections to LGTBQ students. We fund an in-state private school that went to court to assert its right to reject students with disabilities, based on “standards” set by the school, even when students were previously and successfully educated alongside peers of the same age. We fund another private school that said the reason it did not previously provide disability services is that it is a college-prep program, as if having a disability means college is not in your future. In all these cases, our tax dollars are being used to send a powerful message about who these schools feel are inferior— a message that affects hearts and minds in ways that are difficult to undo. These voucher-funded private schools can do these harms because they are not held to the same standard as public schools.

Some of the work ahead belongs to the legislature, but some of it belongs to the state board of education, which must protect our shared public interest and the value and rights of all Vermont children, and not just narrow private interests.

The state board should not set standards that are inconsistent with the rights of students with disabilities. And, no private school should receive public education dollars unless it commits to open enrollment, conforms to the same education quality standards that apply to public schools, embraces a truly public mission, and has fully transparent data as do public schools.

Independent Schools, and Public Education and the Education Quality Standards September 14, 2023

Comments from Jo-Anne Unruh, Ph.D., retired educator, special education administrator and retired Executive Director of the Vermont Council of Special Education Administrators

I have been a special educator and special education administrator in Vermont since 1971. In those many years since I have participated in the development and unfolding of services for children and young adults with disabilities in a variety of settings, private and public, and locally and statewide. In Vermont we need robust and strong public schools and independent school systems for historic and current reasons. That said I am deeply concerned about the direction the State Board of Education takes with the rules as applies to Education Quality Standards in relation to Rule 2200, Independent School Programs Approval processes. Please consider the following concerns.

As the Board considers revising the Education Quality Standards (EQS), the policy of the State is not considered throughout the rules. As written these rules are targeted at public schools and school districts; however, there is a lack of accountability for independent schools providing a substantially equal educational opportunity for all students, especially students with disabilities.

Federal law requires students in private school to meet the same educational standards applicable to public schools, these rules do not require independent schools in Vermont to meet the same standard applicable to public schools which are the EQS. If there is no requirement for transparency of accountability for students educated in independent schools, there is no equality of education in Vermont. With separate standards, there is inequality.

Further, given that independent schools are not held to the same standards of assessment of their programs as the public schools, there is no equity in educational opportunity; these rules are to make schools, ALL SCHOOLS, accountable for discrimination in its many forms. I am also deeply concerned there is not link, connection or consistency with the 2200 rules for approval. Again, this is reflective of two systems where there is accountability and transparency only for public schools. There is a genuine lack of reporting requirements for independent schools which further enables separation of these educational systems.

The designation of an independent school as meeting EQS and a mechanism for accountability is wholly lacking in these proposed rules. The designation allows independent schools to charge more in tuition without the accompanying transparency and accountability.

An assurance is simply insufficient, and I ask you to hold independent schools accountable to sending districts that all students meet the same educational standards applicable to public schools. That is the only way to ensure substantially similar educational opportunities for ALL VERMONT CHILDREN, especially students with disabilities which independent schools are to serve.

I am attaching my comments on the 2200 rules as they contain many of the concerns I have regarding these issues of accountability and transparency. The EQS standards must become part of the independent school approval process if we are to have equal educational opportunities for all.

My concerns center in the following areas:

Vermont Agency of Education Capacity:

- The Vermont AOE lacks the critical capacity and authority to actively oversee the education of students with disabilities within the independent schools, both legally and financially.
- There is a lack of AOE recognized input from the local LEAs as to the functioning and capacity of area independent schools to implement special education services that meet the legal requirements of IDEA, state special education rules and state education quality standards for all students. Specifically, some of the independent schools struggle with serving students, over-rely on discrete services rather than inclusive education as outlined in Act 173, billing is questionable at times, or doesn't conform to special education rules and statute, while there is no established mechanism for local LEAs to appropriately communicate this to the AOE, which oversees these entities.
- A structure for achieving this input from the local LEAs is necessary, even more so with the passage of Act 173 that includes a census-based funding system and a commitment statewide to a multi-tiered system of supports for all students in public school. The census-based funding system cannot stand if the costs charged by independent schools for meeting the needs of students with disabilities are not consistent with Act 173, carefully monitored, transparent and clearly communicated to LEAs (local education agencies, typically the school district) and SEA (State Education Agency, in this case the AOE). This is not possible under the rules as proposed where independent schools will continue to bill under a reimbursement model while Act 173 explicitly and in detail outlines why this reimbursement model is dated and problematic.
- There is a lack of a structured connection between the financial regulatory oversight and transparency required of public schools by AOE and that (not) required of independent schools. This creates an incentive for higher costs in private schools, even as the census-based model requires cost containment and shifting to early intervention and core instruction in public schools.

Role of the Local Education Agency - School Districts

- The rules as proposed demonstrate a lack of understanding of the legally prescribed role of the LEA for the education of children with disabilities regardless of whether the student is in a public or independent school. The role that independent schools must play in implementing an appropriate education within the construct of the highly regulated State and federal laws protecting and governing special education must be clearly identified in the regulations. The LEA is an indispensable partner in this process

by law and regulation, both federal and state. For example, when meeting the needs of students with complex and intense needs it is my experience that some independent schools have difficulty meeting these. Students may be asked to leave without communicating with the LEA. This leaves both the LEA and the student and their family in a very difficult situation both for the education and well-being of the student and family and for the LEA programmatically and legally. The LEA is the legally vulnerable entity in this situation and not the private school.

- Hiring and retaining special education staff is also an area of significant concern for a stable special education delivery system, and for addressing the needs in particular areas of disability. An example from Vermont is an independent school approved to serve students with learning disabilities that employed a single special educator with no background in teaching children to read, nor a plan to address this need.
- The role of the special education team (IEP Team) in identifying the strengths, needs, and services for children with disabilities regardless of whether this is in a public or independent school must be specifically affirmed in rule, as is not the case in the proposed rules. The IEP Team's role in oversight of program implementation is critical and cannot happen without the parent and LEA representative's active participation. **The LEA and SEA remain the legally answerable structures, not the independent school. IEPs are legally binding contracts, not recommendations for implementation. This role of the IEP Team needs to be affirmed in Vermont regulation.**
- There is a critical and pervasive role for both school leadership and general education in the implementation of the overall education program for students with disabilities in both public and independent schools. This context includes the state quality standards and access to the full range of regular and special educational services for these children and young adults. Strengthening the universal level of instruction in all schools is the foundation of early learning for all children. This commitment to strengthening universal first instruction was central to the purpose of Act 173 and was clearly articulated within Act 173. **How will this apply to independent schools as this is the basis for funding special education services within a census-based system model? That is not addressed within the rules as proposed.**
- **A prevalent misconception exists that approved independent schools are truly financially independent. In fact, the bulk of tuition funding for most comes from taxpayer dollars, and especially so for the approved therapeutic schools. Therefore, independent schools should be clearly answerable to the public educational system of laws and practices educationally and financially within Vermont law and regulation. Schools that are dependent on tax dollars should follow the same rules and statutes as public schools, or they cannot function as an integral part of our investment in equitable opportunities for all students including those with disabilities.**

Administrative Costs:

The costs borne by LEAs in maintaining the administrative structures to assure for meeting state and federal requirements in program oversight and financial accounting within independent schools on behalf of students with disabilities must be acknowledged and accounted for. That is not acknowledged in the rules necessary with

Act 173 implementation, nor is it acknowledged in public debate over the cost of education in private settings. These overhead costs are higher when services are delivered in private settings. They are significant and are born by taxpayers. **In the absence of adequately funded oversight of independent schools within the SEA in partnership with both LEA and independent school, there is no ability to provide public assurance that tax dollars are appropriately used to support students.**

Summary:

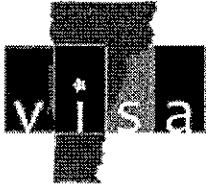
In summary, most approved independent school placements are largely paid for with public dollars. The responsible public agencies including the LEAs and SEA are legally and financially responsible to the Vermont Legislature, Vermont State Board of Education and the federal government for students identified as having special education needs in these schools. The AOE does not have the capacity and tools currently to work effectively with the independent schools and LEAs in overseeing the independent schools responsible for implementation of special education and Act 173's broad purposes.

Recommendations:

- **Budgeting and finance within independent schools needs to be accounted for in a detailed and transparent way by regulation and financial accounting practice.** Both the State Board of Education and the Agency of Education have a role in establishing these practices. The proposed 2200 rules introduce significant risks related to cost increase and inadequate service, and erode the core intent of Act 173 to strengthen the whole education system recognizing the deeply interdependent relationship between general and special education.
- **It is vital that the Agency of Education have both the regulatory authority and the capacity to oversee and monitor the budgeting and financial accountability of approved independent schools when public funds are granted to these schools.** Additionally, a mechanism for LEA input into this process is vital, given the role (under both federal and state law) that the LEA plays in working with these schools on behalf of enrolled children. Including an LEA representative under Section 2223 for independent school review and visits would be one step that acknowledges and empowers the districts sending students to the school and funding them there.
- **Under 2223.8 Denial, Revocation, or Suspension of Approval or 2223.9 Complaints.** When investigation is considered by the State Board of Education the Council of Independent Schools is included. Public school administration representation should be consulted as well when a formal investigation is initiated. This is a significant omission, given the critical role of the LEA.
- **Under 2224 Reciprocity, accreditation from a recognized accrediting agency must be required to consider Vermont and federal special education regulations and the goals of Vermont's Act 173 given the requirement that "the school is meeting the approval standards".** In addition, the Agency needs adequate resources and staffing to meet the public assurance imperative of deciding a school meets quality standards.

- **2226 Application Under 2226.3** “A description of the school enrollment including a statement of how it is designed to serve children with disabilities.” This statement must indicate that the design of services is consistent with Vermont and federal special education regulations and Act 173 core purposes.
- **2227 Approval.** Clarification of the statement “..., that the school provides a minimum course of study pursuant to 16 VSA, ... and that it substantially complies with the Board’s rules for approved independent schools.” An operational definition of “minimum” and “substantially” is needed.
- **2227.5.1** The absence of the licensure needs to be addressed when describing teachers who are providing special education services. This is not a field where “substantially equivalent time in training and experience in their field of instruction” is sufficient unless recognized through a formalized peer review process.
- **2229.3 Assurances. Demonstration of “understanding”** also requires an operational definition. Demonstration of compliance with special education law and regulations both federally and in Vermont would be a recommended standard.
- **2229.4 Procedures for Publicly Funded Students Receiving Special Education Services to Enroll in an Approved Independent School.** Under (a)(1), clarification of the “...and the student meets the other requirements of the school’s enrollment policies.” Clarification of what this encompasses is needed; as enrollment policies vary. In addition, some of the current enrollment practices used by some independent schools have been demonstrated to select against students with learning differences. Allowing schools to set enrollment practices that likely reduce enrollment by students with disabilities appears to conflict with the inclusive intent of Act 173.
- **2223.1 Written Agreements Required.** Detailed and transparent accounting consistent with Generally Accepted Accounting Principles is necessary.
- **2233 Standards and Regulations.** The responsibilities the LEA is given by federal and Vermont law and regulation make it important that the SBE provide the opportunity for LEA representation to “participate in the development and revision of state standards that apply to independent schools.”
- **Private Kindergarten Approval Section 2292 Criteria for Approval.**
(c)(5) Identifying developmental delays in young children, and implementation of programs to address these needs consistent with Early Childhood Special Education requirements in Vermont law and regulation.
- **The vital importance of establishing Agency of Education capacity in implementing and overseeing meaningful oversight and collaboration with independent schools and their LEA partners cannot be overstated.**

Thank you for the opportunity to comment.
Jo-Anne Unruh - JoAnne.Unruh@gmail.com



Vermont Independent Schools Association

To: Vermont State Board of Education (SBE)

From: Tim Newbold, Vermont Independent Schools Association

Date: April 15, 2024

RE: Comment on Rule Series 2200 V15 Draft

I am writing on behalf of the Executive Committee of the Vermont Independent Schools Association (VISA) to comment on the V15 draft of the proposed updates to Rule Series 2200, as posted on the agenda for your April 17, 2024 meeting.¹

VISA appreciates the State Board of Education's effort to enhance the independent school approval rules. We continue to support the application of Act 1 principles to these rules, as well as the addition of an annual assurance process to attest to compliance with Vermont's anti-discrimination laws. **VISA opposes the approval of any school that is unwilling to attest to its unqualified compliance with anti-discrimination laws and regulations.**

We respectfully ask the SBE to consider the following changes to the proposed rules.

Proposed Rule 2223.4(d) and (e) provide no opportunity for a school to remedy unintentional lapses in the submission of their annual assurance form. Proposed Rule 2223.4(e) will likely result in schools being advanced to a formal hearing without any opportunity to resolve unintentional non-compliance through informal means. Consider the following common scenarios that would result in a school being referred to the SBE for a formal hearing:

- The school misses the deadline to submit its assurance form because it does not receive the email communication specified in proposed Rule 2223.4(b) due to one or more of the following circumstances:
 - The email is intercepted by spam filter
 - The email is sent to someone no longer employed by the school
 - The email is sent to an incorrect or invalid email address
- There is a technical or administrative error in the submission of the electronic form

¹

<https://education.vermont.gov/sites/aoe/files/documents/edu-sbe-final-draft-rule-series-2200-v15-annotated.pdf>

- The person normally responsible for submission of the form is on vacation, sabbatical, or on medical leave.

We support the referral of any wilful non-compliance to a hearing, but propose the addition of some period of time (e.g. 30 days) for the AOE to work with schools to remedy unintentional non-compliance issues through informal means. Unintended non-compliance issues should only be advanced to a formal hearing if reasonable opportunities to remedy the situation have been ineffective.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Newbold". The signature is fluid and cursive, with a large initial "T" and "N".

Tim Newbold
President of Vermont Independent Schools Association

Vermont State Board of Education

Rule Series 2200 – Independent School Program Approval

CVR 22 000 004

FINAL ANNOTATED RULE APPROVED BY BOARD VOTE 4/17/2024

~~Pursuant to Act 173 of 2018, as amended, these rules take effect on July 1, 2023 except the following rules which take effect on adoption: Rule 2223 (Procedure), Rule 2224 (Reciprocity), Rule 2226 (Application) and Rule 2227 (Approval).~~

Rule 2200. Independent School Program Approval

Section 2220. Statement of Purpose.

The purpose of the independent school program approval rules is to assure effective, available accessible, and equitable educational opportunities that are anti-racist, culturally responsive, anti-discriminatory, and inclusive for students enrolled in Vermont's approved independent schools in accordance with Statestate and federal law and aligned with the purposes set forth in Act 173 of 2018- and Act 1 of 2019.

These rules are organized to provide clarity to independent schools regarding requirements for initial and continued approval to operate and, if applicable, to receive public funds. Accrediting agencies that satisfy the standards set forth herein in Section 2227 (Recognized Accrediting Agencies) will be recognized and the schools they accredit will enjoy an accelerated approval process. Ongoing compliance with state and federal laws and regulations is expected through an annual compliance assurance.

These rules prohibit, to the fullest extent allowed by law, discrimination against any student pursuing an education or participating in the general life or activities of a school because of or based on any actual or perceived protected class consistent with state and federal law. No student shall be unlawfully excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity as the result of, or based upon, the student's race, gender, color, creed, religion, national origin, marital status, sexual orientation, gender identity, or disability, or any other reason set forth in state or federal law.

In addition to the non-discriminatory protections in Subsection 2223.2 (Nondiscrimination Requirements for Approved Schools), discriminating against any student pursuing an education or participating in the general life or activities of a school as a result of or based upon ethnicity, caste, language and linguistic diversity, socio-economic status, housing status, or non-citizenship or immigration status, is contrary to the Board's intent that all students experience an equitable, anti-racist, culturally responsive, anti-discriminatory, and inclusive learning environment.

These rules further require all schools to strive for a culturally responsive pedagogy that critically examines and imparts a comprehensive historical and socially conscious understanding of:

(a) the causes and effects of bias and discrimination as a result of, or based upon, the reasons set forth in Subsection 2223.2 (Nondiscrimination Requirements for Approved Schools) and in this Statement of Purpose;

(b) why all persons should have equitable access to social and economic opportunity;

(c) why persons and institutions must identify and prevent individual, group, and systemic racism, discrimination, and other forms of unfair treatment; and

(d) the positive and multi-faceted contributions of different social, cultural, racial, linguistic, ethnic, and indigenous groups to the historical and ongoing project of building and strengthening democracy in the United States and globally.

Nothing herein shall be construed to entitle any student to educational programs or services identical to those received by other students in the same or different schools. These rules are in addition to and, unless otherwise specifically stated, do not supersede other rules adopted by the Agency or Board. Nothing herein shall create a private right of action.

Section 2221. Statutory Authority-

16 V.S.A. §§~~164(14)~~, 166~~7z~~, 2958(e), 2959, and 2973-; Act No. 173 (2018); Act No. 1 (2019).

Section 2222. Definitions-

"Agency:" means the Vermont Agency of Education.

"Anti-discriminatory" practices are actions, behaviors, programs, and policies by school staff, students, school directors, contractors, and community members involved in the daily operations of schools that are necessary to counter discrimination and that promote a fair, just, and equitable learning environment for all students.

"Anti-racist" practices are actions, behaviors, programs, and policies designed and/or implemented by school staff, students, school directors, contractors, and community members involved in the daily operations of schools that are necessary to counter racism and that promote a racially inclusive learning environment for all students.

"Approved Independent School:" means ~~any~~ any approved independent school that meets the requirements in Rule 2223.3 as well as the requirements in SBE Rule 2225 (of Sections 2223 (Requirements to Operate as an Approved Independent School) and 2224 (Application and Reapplication for Approval; Approval Process) of these rules. An approved independent school is not eligible for public tuition from public funds) and SBE Rule 2226 (Application).

Approved Independent School Ineligible to Receive Public Funds: means an independent school that ~~unless it 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 of Sections 2229 (Approval to Receive Public Tuition; Special Education Approval) and 2231 (Written Agreements Required).~~

"Board-" or "State Board" or "SBE:" means the Vermont State Board of Education.

"Caste" refers to a hierarchical social system of exclusion and dehumanization based on notions of purity and contamination. Those who suffer the stigma of caste are often deprived of or severely restricted in the enjoyment of their civil, political, economic, social, and cultural rights.

"Civic and Community Engagement" refers to individual and/or collective actions that identify and address issues of public importance and that provide people with opportunities that contribute to the current and future development of their communities and a democratic society. Civic and community engagement can take place in

a variety of formal and informal settings, including but not limited to, those in governance and electoral politics, educational, cultural, and recreational activities, community service, and social justice movements.

“Critical thinking” is the objective examination of an issue to discern or form a judgment based on evaluating evidence, checking assumptions, and adopting multiple perspectives to better understand the question at hand.

“Culturally and Linguistically Diverse Students” are those who are members of home, cultural, or social environments whose experience and success is enhanced by schools demonstrating respect for a multitude of linguistic competencies and fostering systems of academic and social inclusion that acknowledge the fundamental importance of such competencies. Linguistic competencies are cultural and linguistic resources that students, families, and communities draw upon, including, but not limited to, a variety of languages, including Indigenous languages, multiple-sign languages, and African American Vernacular English and other dialects.

“Culture” refers to a set of distinctive spiritual, material, religious, intellectual, creative, and emotional attributes of a society or social group and encompasses, in addition to art and literature, lifestyles, ways of living together, values, traditions, and beliefs.

“Discrimination” refers to any exclusion, restriction, or preference based on any protected class as identified in state or federal law. Discrimination may be practiced by individuals and groups and may also be expressed systemically through the structures, laws, practices, and policies of public and private institutions, employers, and organizations.

“Equity” or “Equitable,” as referenced in these rules in relation to schools or educational programs, results in each student receiving the resources and educational opportunities to learn and thrive in all aspects of learning, school life, career technical education, and community-school interactions, and to discover and cultivate their talents and interests. To be achieved, equity requires an inclusive school environment and may necessitate an unequal distribution of resources and services based on the needs of each student.

“Ethnicity” embodies a wide range of criteria used to identify ethnic groups, such as a common history, ancestry or culture, national, social, or geographic origin, skin color, languages, religions, tribe or indigenous people (including the Indigenous Peoples of Vermont), or various combinations of these characteristics, and may reflect a legally protected class of people in some contexts.

“Inclusion” or “Inclusive” practices, as used in this rule, are school-based curricula, programs, activities, resources, and policies that ensure that academic learning, co-curricular and social offerings, and all other aspects of school life are based on the values of equality, equity, social and cultural diversity, freedom, and dignity, so that all students are valued as unique individuals and can achieve their full academic and social potential.

“Independent School Approved for Public Tuition” means an independent school that meets the requirements in Sections 2223 (Requirements to Operate as an Approved Independent School) and 2224 (Application and Reapplication for Approval; Approval Process), as well as the requirements in Sections 2229 (Approval to Receive Public Tuition; Special Education Approval) and 2231 (Written Agreements Required).

“Individualized Education Program-~~”~~ or “IEP~~”~~” means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with ~~SBE Rule~~Section 2363.

~~Therapeutic Approved Independent School (or Therapeutic Independent School or Therapeutic School):~~ means 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 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.

“Language” refers to systems of conventional and unconventional spoken, visual-manual, technological, and written symbols that human beings use personally and as members of social and cultural groups to express themselves, shape identity, acquire knowledge, mediate power, play, create, imagine, build and sustain familial, social, and cultural bonds, and express a wide range of personal needs, aspirations, and emotions.

“Linguistic Diversity” refers to the immense body of diverse and complex systems of communication and expression (e.g., official languages, endangered languages, indigenous and minoritized languages, dialects, and non-verbal languages and communication), the respect for and preservation of which is fundamental to students’ experience and academic success; eradicating bias, racism, and discrimination; and fostering practices and systems of inclusion, equality, equity, and diversity in our schools and communities.

“Local Education Agency(“ or “LEA);” as that term is defined in 20 U.S.C. §7801-(26), means the supervisory union or supervisory district.

“Needs-Based Professional Learning” refers to staff learning based upon needs identified through an examination of student performance and organizational and instructional data, and which is aligned with the school's curriculum and pedagogical practices.

“Neurodiversity” refers to the natural and important variation in how human minds think and is not to be cured or corrected to fit social norms. These differences can include, but are not limited to, autism, attention deficit hyperactivity disorder, dyspraxia, dyslexia, dyscalculia, and Tourette Syndrome.

“Race” embodies an invented or socially constructed concept that is used to categorize groups and cultures on the basis of physical differences transmitted through descent, like skin color, and may reflect a legally protected class of people in some contexts.

“Racism” embodies the theory, belief, or act of making value judgements that are based on racial, ethnic, or cultural differences, or which advances the claim that racial, ethnic, or cultural groups are inherently superior or inferior, thus explicitly arguing or implying that some groups are entitled to dominate, exploit, exclude, or eliminate others presumed to be inferior. Racism is practiced by individuals and groups, and it is expressed systematically through the structures, laws, regulations, practices, and policies of public and private institutions, employers, and organizations.

“Recognized Independent School:” means an independent school meetingthat meets the requirements in 16 V.S.A. §166-(c). A recognized independent school is not eligible to receive public tuition.

“Restorative Practices” refer to whole-school, relational approaches to building school climate and addressing student behavior that fosters belonging over exclusion, social engagement over control, and meaningful accountability over punishment. They encourage members of the school community to be constantly present, attending to needs as they arise. They exercise the ability to be dynamic rather than static in a given response. Restorative approaches also begin with proactive structures to build positive relationships and communication

and create a space for people to express themselves—their strengths, assets, responsibilities, and also their vulnerabilities. Neither restorative approaches, practices, processes, nor programs shall remove or lessen to any degree a school's responsibility under Vermont law and policy to investigate, call out, name, and discipline behaviors that violate the Agency's "Policy on the Prevention of harassment, Hazing, and Bullying" (HHB) and Federal Title IX.

"Secretary:" means the Secretary of the Vermont Agency of Education or their designee.

"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/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 by 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 Subsection 2360.2.12.

~~Student: means a person age three through age twenty one.~~

"Student who requires additional support/Requires Additional Support" means a student who meets the criteria defined in 16 V.S.A. §2942-(8).

"Therapeutic Approved Independent School" or "Therapeutic Independent School" or "Therapeutic School" means an approved independent school that limits enrollment to students who are on an individualized education program 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 and the school. These schools are eligible to receive public tuition, which is inclusive of both general and special education services, at a rate approved by the Agency of Education.

"Tuition:" means funds paid by a school district to an approved independent school for general education in accordance with ~~SBE Rule 2225.~~ Section 2228.

Section 2223 Procedures for Requirements to Operate as an Approved Independent Schools and Approved Independent Schools Ineligible to Receive Public Funds, School

Every person or entity desiring to operate an approved independent elementary or secondary school as an approved independent school shall apply in writing to the Secretary. ~~An application shall and meet the requirements of SBE Rule 2226~~ law and Sections 2223 (Requirements to Operate as an Approved Independent School) and 2224 (Application).

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

2223.1 Visit.

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

2223.2 Report.

The committee shall write a report, including a written initial recommendation regarding approval, to the Secretary. A copy of the initial recommendation shall be provided at the same time to the applicant. The applicant shall be given 30 days to respond before the Secretary makes a final recommendation regarding approval to the State Board. ~~The Secretary's final recommendation shall contain the findings of other agencies of state government that inspect such facilities.~~

2223.3 General Conditions and Reapplication for Approval.

~~Approval shall be recommended for an independent school offering elementary or secondary education that provides a minimum course of study pursuant to 16 V.S.A. § 906, and that substantially complies with all statutory requirements for approved independent Process) of these rules. Approved independent schools and the Board's rules for approved independent schools, including Rule 2226 and Rule 2227. Effective July 1, 2023, an independent school that intends to accept public tuition must also meet the requirements of SBE Rule 2229. Effective July 1, 2023, a school meeting approval requirements shall be permitted to operate, in SBE Rules 2226 (Application) accordance with these rules, for a term of five years or less, as set by the Board, and 2227 (Approval) but not Rule 2229 (Approval to Receive Public Tuition, Special Education Approval) may be recommended submit a new application for approval but may not receive public tuition.~~

2223.4 Review.

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

2223.5 Renewal.

~~Not less than six months (reapproval) prior to the expiration of a school's approval, the Secretary 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.~~

2223.6 Extension.

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

2223.7 Termination.

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

2223.8 Revocation or Suspension of Approval.

Prior to recommending revocation or suspension of approval, the Secretary shall initiate a formal investigation pursuant to rule 2223.9 (Complaints; Investigations). Following the formal investigation, the Secretary shall share the findings with the Council of Independent Schools. The Council shall consider the findings from the investigation and the Secretary's proposed resolution and issue a written opinion on the same. If, after receiving the Council's opinion, the Secretary determines that revocation or

~~suspension of approval is warranted, the Secretary shall notify the State Board of the recommendation and provide notice to the school. The State Board shall hold a hearing pursuant to 3 V.S.A. chapter 25 to consider the Secretary's recommendation.~~

~~(a) After providing an opportunity for hearing, the~~each term. The Board may revoke, suspend, or impose conditions ~~on the approval of an approved independent school for;~~upon an approved independent school according to process set forth in these rules. An approved independent school is not eligible to receive public tuition unless it also meets the requirements of Section 2229 (Approval to Receive Public Tuition; Special Education Approval) and Section 2231 (Written Agreements Required).

~~(2223.1) Failure to demonstrate that.~~ **General Requirements for Approved Schools**

All approved independent schools must comply with statutory requirements and the Board's rules for approved independent schools and must provide a minimum course of study pursuant to 16 V.S.A. §906. An approved independent school hasmust have the resources required to meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and special services that are in accordance with state and federal laws and regulation.

~~(2223.2) Failure to comply with statutory requirement or the Board's rules.~~ **Nondiscrimination Requirement for Approved Independent Schools**

No student shall be unlawfully excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity as the result of, or based upon, the student's race, gender, color, creed, religion, national origin, marital status, sexual orientation, gender identity, or disability, or any other reason set forth in state or federal law.

2223.2.1. Nondiscrimination Statement and Policy

(a) Statement. Each approved independent school;school shall, to the fullest extent consistent with its constitutional and statutory rights, maintain a statement of nondiscrimination that complies with the Vermont Public Accommodations Act, Title 9 Vermont Statutes Annotated, Chapter 139, and the Vermont Fair Employment Practices Act, Title 21 Vermont Statutes Annotated, Chapter 5, Subchapter 6. The school shall abide by its nondiscrimination statement in all aspects of its recruitment, enrollment, operation, and employment activities.

~~(3) Failure to report any of the financial events listed in (b) below; or~~

~~(4) Failure~~(b) Policy. Each approved independent school shall maintain, follow, and distribute to makestudents and families of enrolled or prospective students, or the student's education support team, policies that implement the school's nondiscrimination statement.

2223.3. Specific Requirements for Approved Independent Schools

Each approved independent school shall maintain a safe, accessible, orderly, civil, flexible, and positive learning environment, free from harassment, hazing, and bullying. Educational opportunities shall, consistent with state and federal law, be provided in an equitable, anti-racist, culturally responsive, anti-discriminatory, and inclusive manner, based on sound instructional and classroom management practices and clear discipline and attendance policies that are consistently and effectively enforced.

2223.3.1. Physical Facilities

Each approved independent school must ensure that its physical facilities, including plant, materials, and equipment, meet all applicable state and federal requirements pertaining to the health, safety, and privacy of students.

(a) Each residential school must arrange, on an annual enrollment report basis, a fire safety inspection performed by the Department of Public Safety or its designee. A certificate executed by the inspecting entity, declaring satisfactory completion of the inspection and identifying the date by which a new inspection must occur, shall be posted at the school in a public location. The school shall provide a copy of the certificate to the Secretary of Education after each annual inspection. The school shall pay the actual cost of the inspection unless waived or reduced by the inspecting entity.

(b) Each approved independent school must have classroom, laboratory, library, and other facilities necessary to operate its program.

2223.3.2. Financial Capacity, Solvency, and Stability

An approved independent school must maintain the financial capacity to meet its stated objective during the period of its approved status and must adhere to all applicable financial reporting requirements. For purposes of these rules, "financial capacity" means that anticipated revenue and funds on hand are sufficient to meet a school's stated objectives.

as-(a) Each approved independent school must file federal and state tax returns when due, unless an extension is granted; meet payroll and state and federal payroll tax obligations as they are due; maintain required by 16 V.S.A. § 166.(b)(4)-retirement contributions; ensure that designated funds are not used for non-designated purposes; fully comply with the financial terms of its secured installment debt obligations; and not become insolvent as defined by 9 V.S.A. §2286(a).

(b) An approved independent school shall report to the Secretary within five days after its knowledge of any of the following events, unless the failure is de minimus:

{1} The, the school's failure to file its federal or Statestate tax returns when due, taking into account permissible extensions of time;

{2} The, the school's failure to meet its payroll obligations as they are due or pay federal or Statestate payroll tax obligations when due;

{3} The, the school's failure to maintain required retirement contributions;

{4} The, the school's use of designated funds for non-designatednon-designated purposes;

{5} The, the school's inability to fully comply with the financial terms of its secured installment debt obligations over a period of two consecutive months, including the school's failure to make interest or principal payments as they are due or to maintain any required financial ratios;

{6} The, the withdrawal or conditioning of the school'sschool's accreditation on financial grounds by a private, Statestate, or regional agency recognized by the Board for accrediting purposes; or

{7} The, the school's insolvency as defined in 9 V.S.A. §2286-((a).

~~(e) If the State Board reasonably believes that an approved independent school lacks the financial capacity to meet its stated objectives during the period of its approved status, the Board shall so notify the school in writing and shall act in accordance with the procedure set forth in 16 V.S.A. § 166.(b)(8)(B).~~

(c) Approved independent schools are encouraged to employ generally accepted accounting principles (GAAP).

2223.3.3. Instruction, Faculty, and Special Services

To demonstrate that it provides a minimum course of study as defined by 16 V.S.A. §906,

~~(d) If the State Board, after having provided the school a reasonable opportunity to respond to the Board's notification, does not find that the school has satisfactorily responded or demonstrated its financial capacity, the Board may establish a review team that, with the consent of the school, includes a member of the Council of Independent Schools, to:~~

~~(1) Conduct a school visit to assess the school's financial capacity;~~

~~(2) Obtain from the school such financial documentation as the review team requires to perform its assessment; and~~

~~(3) Submit a report of its findings and recommendations to the State Board.~~

~~(e) If the State Board concludes that an approved independent school lacks financial capacity to meet its stated objectives during the period of its approved status, the State Board may take any action that is authorized by this section.~~

must

~~(f) In considering whether an independent school lacks financial capacity to meet its stated objectives during the period of its approved status and what actions the State Board should take if it makes this finding, the State Board may consult with, and draw on the analytical resources of, the Vermont Department of Financial Regulation.~~

~~(g) Information provided by a school under this section that is not already in the public domain is exempt from public inspection and copying under the Public Records Act and shall be kept confidential according to 16 V.S.A. § 166.(b)(8).~~

2223.9 Complaints; Investigations.

~~(a) The Secretary shall conduct an initial investigation of reports or complaints related to the approval standards and laws that apply to approved independent schools. If, following an initial investigation, the Secretary finds a violation of approval standards or laws that apply to approved independent schools, the Secretary should first determine whether the matter can be resolved through informal means, such as by provision of regulatory guidance, and confirm that corrective action is taken by the school. If the Secretary determines that informal means are not appropriate to the violation or if the matter has not been resolved informally, the Secretary may place the approved independent school on probation.~~

~~(b) At any time, the Secretary may convene a review team to conduct a formal investigation without first attempting an informal resolution or imposing probation.~~

~~(c) An approved independent school may appeal the imposition of probation to the State Board by requesting a hearing as provided above.~~

~~(d) The Secretary shall maintain a register of all complaints that result in imposition of probation or a formal investigation, which shall be a public record and which shall include the general nature of the complaint and action taken by the Secretary.~~

~~(e) Formal Investigations~~

~~(1) The school shall receive notification of the complaint unless contraindicated by the particular facts.~~

~~(2) If the Secretary determines that a formal investigation is warranted, the Secretary shall appoint a review team of at least two persons including a member of the Council of Independent Schools. The team will conduct the investigation and will inform the Secretary and the school of the results. The process in SBE Rule 2223.8 shall then apply.~~

~~(3) 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 for Children and Families. Reports concerning the safety of facilities, water supply, electricity, plumbing, or waste disposal systems shall be referred to the appropriate agency.~~

~~**Section 2224 Reciprocity for Approved Independent Schools and Approved Independent Schools Ineligible to Receive Public Funds.**~~

~~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. In addition to the accrediting agencies listed in SBE Rule 7320, which the Board shall continue to recognize until July 1, 2024, the State Board recognizes the Association of Independent Schools in New England and the New England Association of Schools and Colleges. 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 Agency 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, then the school must undergo the approval process. A school accredited by a state or regional agency recognized by the State Board shall notify the Agency within five days of a change to its accreditation.~~

~~**Section 2225 Tuition from Public Funds.**~~

~~**2225.1 Tuition for Independent Schools in Vermont.**~~

~~Tuition shall not be paid from public funds to any independent elementary or secondary school in Vermont unless the school satisfies the requirements in SBE Rule 2226 (Application), SBE Rule 2227 (Approval), and SBE Rule 2229 (Approval to Receive Public Tuition, Special Education Tuition). Notwithstanding this prohibition, tuition may be paid from public funds in cases where:~~

~~(a) There is an order from a court or from a due process hearing pursuant to SBE Rule 2365.1.6 requiring such payment, or~~

~~(b) The Secretary has approved an exception for a placement in an independent school pursuant to SBE Rule 2230.1.~~

~~**2225.2 Tuition for Out of State Schools**~~

~~Tuition to be paid to an independent school in another state shall be made in accordance with 16 V.S.A. § 828.~~

~~**Section 2226 Application for Approved Independent Schools and Approved Independent Schools Ineligible to Receive Public Funds:**~~

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

~~**2226.1** The name and address of the school.~~

~~**2226.2** A statement of the school's philosophy and purpose.~~

~~**2226.3** A written description of the school enrollment including a statement of how it is designed to serve children with disabilities.~~

~~**2226.4** 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.~~

~~**2226.5** A description of the its curriculum, methods of instruction, evaluation procedures, and the special services that the school it has designed to achieve its educational objectives and to provide a minimum course of study as defined in 16 V.S.A. § 906.~~

~~**2226.6** Demonstration that the school substantially complies with all statutory requirements for approved independent schools, with documentation of the following:~~

~~(1) A statement of nondiscrimination, posted on the school's website and included in the school's application materials, that is consistent with the Vermont Public Accommodations Act, Title 9 Vermont Statutes Annotated, Chapter 139 and the Vermont Fair Employment Practices Act, Title 21 Vermont Statutes Annotated, Chapter 5, Subchapter 6.~~

~~(2) An assurance, signed by the Head of School, that the school complies with the Vermont Public Accommodations Act in all aspects of the school's admissions and operations.~~

~~(3) A description of physical facilities including plant, materials, and equipment and assurances that the facilities meet all applicable State and federal requirements.~~

~~**2226.7** Evidence of compliance with local, State, and federal requirements pertaining to the health and safety of students.~~

~~**2226.8** Statements regarding (a) Professional Staff.~~

1. The school must employ a sufficient number of professional staff including:

2226.8.1 Professional Staff qualifications:

(1) A job description for each position or a statement describing for the population served who are qualified by training, and experience, and degree(s) required for each position, in the areas in which they are assigned as measured by the following:

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

(3) Current assignment of each professional staff member.

2226.8.2 Professional Staff Development:

(1) A general statement of the institution's _____ A. 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; and

B. for all professional staff, relevant experience and/or training in other programs which may or may not be directly related to teaching or the administrative duties to which they are assigned.

2. The school must have an adequate program of continuing professional staff development, including needs-based professional learning. The school shall keep a general description of its staff meetings, develop and maintain expectations for professional growth of staff.

(2) A statement, and maintain information describing the school's inserviceschool's in-service training and, financial, and any other support givenprovided to staff for professional development.

(3) A description of professional development in the prior two years.

2226.8.3 Professional Environment:

(1) A list of. The school shall maintain job descriptions for every position that describe training, experience, and degrees required for the position. The school shall also maintain records that include a resume, vita, or description of appropriate qualification for each current staff and member, along with their current assignment, length of service.

(2) A, and a description of staff meetings.

(3) A description of other staffany duties that are not related to teaching or administration duties.

2226.9 Evidence of financial capacity, which 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(b) Instructional Strategies. Practices employed by educators shall include examining and teaching a subject from multiple academic perspectives and encouraging students to engage with and synthesize diverse perspectives and narratives, including those from the students' lived experiences, into a coherent understanding or analysis. Educators shall be supported in:

1. examining their own identities and biases;

2. fostering a learning environment that recognizes multiple ethnic, cultural, and racial perspectives; presents and critiques historical counter-narratives; and encourages students to examine issues and expressions of social equity within and beyond the classroom or school;

3. modeling and setting high expectations for all students - regardless of a student's prior academic experience, family background, socio-economic status or (dis)abilities - and promoting respect for student differences;

4. recognizing the essential role that language acquisition and literacy play in the lives of students, especially culturally and linguistically diverse students, not only in respect to listening, speaking, reading, and/or writing, but as home and community practices that shape a culturally responsive understanding of students' social, racial, linguistic, and ethnic identities, of their communities, and of their world;

5. communicating in culturally and linguistically responsive ways;

6. providing learning experiences that are designed for neurodiversity with multiple ways for students to access learning;

7. using educational and assistive technology to reduce barriers to learning and heighten student engagement;

8. cultivating student agency by providing multiple ways for students to engage with and demonstrate their new learning;

9. emphasizing an inquiry-driven approach to all units of study and bringing real-world issues into the classroom;

10. heightening the relevance and importance of learning objectives and providing mastery-oriented feedback;

11. employing the use of data to adapt pedagogy to unique student needs and incorporating student feedback into instructional design and curricula;

12. teaching students how to develop metacognitive and social emotional skills that improve their academic outcomes;

13. designing learning experiences that improve students' wellbeing, including opportunities for physical movement in the classroom; and

14. fostering a positive classroom culture using restorative practices where appropriate.

(c) Curriculum Content Areas.

~~All 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.~~

~~2226.10 The school calendar.~~

~~2226.11 Copies of publications for distribution to applicants for admission including the statement required by 16 V.S.A. § 166.(b)(3).~~

~~Section 2227 Approval of Application.~~

~~The Board shall approve an independent school that offers elementary or secondary education if it finds, after opportunity for hearing, that the school provides a minimum course of study pursuant to 16 V.S.A. § 906, and that it substantially complies with the Board's rules for approved independent schools.~~

~~In order to be approved, an independent school that operates a boarding program, enrolls students as boarding students, or operates a residential treatment program shall be accredited by a state or regional agency recognized by the State Board for accrediting purposes or shall be licensed as a residential child care facility by the Department for Children and Families. This requirement does not apply to an independent school that enrolls only day students.~~

~~The Board shall make the following findings prior to approval:~~

~~2227.1 The description of the school in the approval application is accurate.~~

- ~~1. 2227.2 shall enable students to engage annually in rigorous, relevant, and comprehensive learning opportunities that are socially and culturally responsive and that allow them to demonstrate proficiency in the curriculum delivered. The course of study offered is shall be age and ability appropriate and adequate to meet the educational purposes of the school and to provide a minimum course of study that is age and ability appropriate.~~
- ~~2. 2227.3 The school has available support Knowledge of diverse cultures, languages, and perspectives shall be incorporated into learning activities and curriculum design, including connecting students' life experiences and ways of learning, to help students access rigorous curriculum and develop higher order thinking skills. Curriculum shall be equitable, anti-racist, culturally responsive, anti-discriminatory, inclusive, and accessible to students and families and shall include ethnic and social equity studies, as described in Act 1 (2019), which promotes critical thinking regarding the history, contribution, and perspectives of ethnic groups and social groups.~~

(d) Special Services. Approved independent schools shall maintain special services necessary to meet the requirements of a minimum course of study and ~~its~~their educational purposes, including library services, administrative services, guidance and counseling services, and a system of records by which student progress may be assessed. All students shall have access to education materials, which may include digital, multi-media, alternate format and/or print materials sufficient and appropriate to support their learning needs.

2223.3.4. Maintaining Safe and Equitable Access to Educational Opportunities

Approved independent schools are expected to provide for the safety, protection, and equitable treatment of students and school personnel in accordance with state and federal laws. School governance boards and leadership teams shall make every effort to remain current in their understanding and implementation of recognized best practices and procedures in this regard and shall also take care to remain compliant with laws adopted after the promulgation of these rules. At a minimum, each approved independent school shall develop and maintain the following:

(a) a comprehensive plan for responding to student discipline and misbehavior, as required by 16 V.S.A. §1161a, that is clear and consistently enforced and includes consequences for violations of policy;

(b) harassment, hazing, and bullying prevention policies pursuant to 16 V.S.A. §166(e) and procedures for dealing with harassment, hazing, and bullying of students pursuant to Chapter 9, Subchapter 5 of Title 16 of the Vermont Statutes Annotated;

(c) practices that comply with the requirements of 16 V.S.A. §§253 - 255 relating to confidentiality and maintenance of records, criminal record checks, and checks of the Child Protection Registry and the Vulnerable Adult Abuse, Neglect, and Exploitation Registry;

(d) procedures that do not permit any person listed on the State of Vermont, Department of Public Safety, Vermont Crime Information Center Sex Offender Registry to work at the school as an employee, volunteer, or work study student pursuant to 16 V.S.A §260;

(e) practices that ensure that adults employed in the school receive orientation, information, and instruction on the prevention, identification, and reporting of child sexual abuse (as defined in 33 V.S.A. §4912(8)) and sexual violence, and that also offer opportunities for parents, guardians, and other interested persons to receive the same information as required by 16 V.S.A. §563(a);

(f) opportunities that provide access for eligible students to participate in dual enrollment pursuant to 16 V.S.A. § 944, including accepting credit duly awarded, collecting enrollment data, and providing support to participating students during the program and as they transition to postsecondary enrollment;

(g) a procedure for providing the names and addresses of publicly funded students enrolled at the approved school to the school's regional career technical education (CTE) center and complying with any other requirement in Title 16 or Rule 2370, et. seq. related to career technical education;

(h) an enrollment policy designed to serve children with disabilities;

(i) a concussion management action plan and information that is developed, distributed, and acknowledged by required personnel and includes appropriate training for athletic coaches in

recognizing and managing the risks of concussions and other head injuries in accordance with 16 V.S.A. §1431;

(j) practices that ensure compliance with requirements of 18 V.S.A. §1120, et seq. regarding the immunization of students against disease;

(k) a policy pursuant to 16 V.S.A. §912 regarding a student's right to be excused any lesson, exercise, or assessment requiring the student to participate in or observe the dissection or harm of an animal;

(l) procedures to ensure that students have access to menstrual products at no cost pursuant to 16 V.S.A. §1432;

(m) practices that ensure compliance with supporting and protecting the rights of married, pregnant, or parenting students pursuant to 16 V.S.A. §1073;

(n) practices that permit students with life-threatening allergies or with asthma to possess and self-administer emergency medication in accordance with 16 V.S.A. §1387;

(o) an all-hazards emergency operations plan consistent with 16 V.S.A. §1480;

(p) fire and emergency preparedness drills pursuant to 16 V.S.A. §1481;

(q) a written building access control and visitor management policy consistent with 16 V.S.A. §1484;

(r) practices that promote an equitable, just, and inclusive community of adults and students, foster a culture of learning, and inspire students to respect and value diversity in its many forms;

(s) after July 1, 2025, behavioral threat assessment policies, procedures, and reporting mechanisms consistent with 16 V.S.A. §1485; and

(t) practices to remain aware of and compliant with any rule or regulation related to the safety, protection, and equitable treatment of students and school personnel.

2223.3.5 Other Required Activities

In addition to activities outlined in Subsection 2223.3.4 (Maintaining Safe and Equitable Access to Educational Opportunities), each approved independent school shall perform the duties listed in (a) – (k) below.

For the purposes of subdivision (j) of this Subsection 2223.3.5 (Other Required Activities), a transcript is a formal record certifying and documenting a student's or former student's academic achievement and shall include, at a minimum, the student's name, date of birth, last known address, dates of attendance, courses taken, grades or proficiencies achieved, credits or credentials awarded, and standardized test scores, if applicable. An academic record includes a student's transcript and may also include alternate graduation plans, an Individualized Education Program, a 504 Plan, personalized learning plan, rank in class, awards, activities, clubs, and other information not included in a student's transcript. The academic record shall not include documents, notes, records, or descriptions of a student's disciplinary history. Academic records are not the same as education records, as referenced in FERPA.

(a) provide to the parent or guardian responsible for each of its students, prior to accepting any money for a student, an accurate statement in writing of its status under 16 V.S.A. §166(b). Failure to comply with this provision may create a permissible inference of false advertising in violation of 13 V.S.A. §2005;

(b) maintain a register of the daily attendance of each of its enrolled students;

(c) provide to the Secretary on October 1 of each year the names, genders, dates of birth, and addresses of its enrolled students. Within seven days of the termination of a student's enrollment, the approved school shall notify the Secretary of the name and address of the student. The Secretary shall notify the appropriate school officials as provided in 16 V.S.A. §1126;

(d) maintain an operating schedule that includes a total number of instructional hours each year that is not less than that required of a public school serving the same grades;

(e) comply with legal requirements of 16 V.S.A. §568 concerning nondiscriminatory school branding;

(f) measure attainment of standards for student performance for publicly funded students, as required by 16 V.S.A. §164(9), and provide data related to the assessments to the Secretary as required by 16 V.S.A. §166(g); schools are encouraged to also provide the data to local education agencies;

(g) provide information to sending school districts related to reporting on weighting categories, as requested, pursuant to 16 V.S.A. §4010(c);

(h) comply with 16 V.S.A. §12 requiring select school officials to subscribe to an oath or affirmation to support the U.S. Constitution, Vermont Constitution, and all state and federal laws;

(i) conduct exercises commemorating the birth, life, and services of Abraham Lincoln, pursuant to 16 V.S.A. §907;

(j) adopt policies related to record maintenance and retention that, at minimum,

1. provide for the secure collection, maintenance, disclosure, transfer, and destruction of academic records;

2. ensure that records are kept physically and electronically secure and enable accurate and timely reporting in connection with data collection requirements in alignment with the Agency's data collection efforts;

3. ensure the accuracy, relevancy and confidentiality of such records, and accessibility thereto, in compliance with the federal Family Educational Rights and Privacy Act (FERPA), if applicable;

4. permanently maintain transcripts of students who have graduated or withdrawn if the school operates grades nine through twelve;

5. provide a method by which the academic record of any former student is promptly and securely transferred to a subsequent school in which the student enrolls, upon request of the student or their legal guardian and without placing any condition on the release of such record; and

6. provide for the timely and confidential disposition of student records in the event of the school's closure; and

(k) comply with other applicable state and federal requirements pertaining to approved schools.

2223.3.6. Independent Schools Operating a Boarding Program

To be approved under these rules, an independent school that operates a boarding program, enrolls students as boarding students, or operates a residential treatment program shall be accredited by an agency recognized by the Board pursuant to Section 2227 (Recognized Accrediting Agencies) or shall be licensed as a residential childcare facility by the Department for Children and Families. This requirement does not apply to an independent school that enrolls only day students.

2223.4. Annual Compliance Assurance

(a) On or before February 15th of each year, each approved independent school shall assure that it continues to comply with applicable requirements of these rules and state and federal law.

(b) In consultation with the Board, the Agency shall prepare and make available a simplified electronic form to be used to meet the requirement of this section that shall be made available to all approved independent schools by direct email and posting on the Agency's website by no later than January 15th of each year and at least thirty days before the date it is due. The Agency shall confirm with each approved independent school that they have received notice of the annual compliance assurance requirement and the submission deadlines within thirty days of the due date.

(c) The form shall include the school's specific assurance that, to the full extent consistent with the school's statutory and constitutional rights, it meets the requirements of Subsection 2223.2 (Nondiscrimination Requirements for Approved Schools) and, for schools approved to receive public tuition, complies with Sections 2229 (Approval to Receive Public Tuition; Special Education Approval) and 2231 (Written Agreements Required).

(d) The form shall also require disclosure of any complaint alleging a violation of a nondiscrimination provision of law or these rules and the status of each complaint. The Agency, upon review, shall certify to the Board that either there were no complaints or that any pending complaint is under review by an appropriate authority. The Agency shall refer any outstanding complaints to the appropriate authority pursuant to Subsection 2226.2.1 (Complaints; Reports), below.

(e) In the event that there are circumstances that are unforeseen or beyond a school's control that prevent submission of the form by the announced due date, a school may request, and the Secretary may grant, approval to submit the form on an alternate date. The request must be submitted prior to the announced due date unless the Secretary finds that delivery of the form, pursuant to (b) above, was ineffective.

(f) If an approved independent school fails to submit its form by the date set by the Agency, the Secretary shall promptly contact the school by phone or first-class mail regarding its deficiency and notify the Board that the school is out of compliance with subsection (a) above. After providing an opportunity for a hearing, the Board may revoke, suspend, or impose conditions on the school's approval status, including its eligibility to receive public tuition, if it determines that the school has failed to comply with the requirements of this Subsection without a showing of good cause.

(g) By January 15, 2025, the Agency shall develop and publish the electronic forms required to comply with this Section. The Agency shall also deliver at least one online training and written guidance that shall be made available to approved independent schools to assist schools in complying with this requirement.

2223.5. Confidential Information

Information provided by a school under these rules that is not already in the public domain is exempt from public inspection and copying under the Public Records Act and shall be kept confidential according to 16 V.S.A. §166(b)(8).

Section 2224. Application and Reapplication for Approval; Approval Process

Approval shall be recommended for an independent school offering elementary or secondary education if it provides a minimum course of study pursuant to 16 V.S.A. §906, substantially complies with all statutory requirements for approved independent schools and the Board's rules for approved independent schools, and fully complies with the nondiscrimination provisions of Section 2223.2 (Nondiscrimination Requirement for Approved Schools), Sections 2223.1 (General Requirements for Approved Schools), 2223.2.1 (Nondiscrimination Statement and Policy), and 2223.4 (Annual Compliance Assurance). A school meeting the requirements of Section 2223 (Requirements to Operate as an Approved Independent School) and this Section, but not Sections 2229 (Approval to Receive Public Tuition; Special Education Approval) and 2231 (Written Agreements Required), may be recommended for approval but may not receive public tuition.

2224.1. Standard Application Process

All independent schools that are not accredited by a recognized accrediting agency pursuant to Section 2227 (Recognized Accrediting Agencies) shall follow the standard application process set forth below.

2224.1.1. Standard Application

An independent school seeking approval under these rules shall apply to the Secretary using a form prepared by the Secretary to meet the requirements of this section. At a minimum, the application shall solicit the information containing or describing the school's basic information, mission statement, enrollment policy, curriculum, methods of instruction, evaluation procedures, special services provided, governance information, evidence of compliance with local, state, and federal laws and regulations, staffing and instructional strategies, fiscal practices and evidence of financial capacity, operational information, assurances and disclosures required under these rules, a request to receive public tuition, if applicable, and other information required under these rules that the Secretary, Board, or review committee may need to determine whether the school meets the requirements for approval. The school shall also submit a compliance assurance form described in Subsection 2223.4 (Annual Compliance Assurance).

2224.1.2. Standard Application Review, Visit, Report, and Recommendation

Upon receipt of a complete application, the Secretary shall appoint a review committee of at least two persons. The committee shall review the application materials and visit the school. To the extent possible, the visit shall be coordinated with other agencies of state government that inspect such facilities. The review committee shall examine the application materials and consider findings from its site visit and submit a report, including a written initial recommendation regarding approval, to the Secretary, and send a copy to the applicant school. The applicant shall be given thirty days to respond before the Secretary makes a final recommendation regarding approval to the Board. The Secretary's final recommendation shall contain the findings of other agencies of state government that inspect such facilities.

2224.2. Accredited Independent School Application Process

In the case of an independent school seeking approval that has been accredited within the last five years by a recognized accrediting agency pursuant to Section 2227 (Recognized Accrediting Agency), an abbreviated application and review process described in this subsection may be used.

2224.2.1. Accredited Independent School Application

An independent school seeking approval under this subsection shall apply to the Secretary using a form prepared by the Secretary. The application shall require the school to provide evidence of accreditation from the recognized accrediting agency, basic information about the school, assurances of compliance with state specific requirements set forth in Subsections 2223.3.4 (Maintaining Safe and Equitable Access to Educational Opportunities) and 2223.3.5 (Other Required Activities) and state law, and a request to receive public tuition pursuant to Section 2229 (Approval to receive Public Tuition; Special Education Approval), if applicable. The school shall also submit a compliance assurance form described in Subsection 2223.4 (Annual Compliance Assurance).

2224.2.2. Accredited Independent School Application Review, Report, and Recommendation

Upon receipt of a complete application, the Agency shall review the application materials and submit a report, including a written initial recommendation regarding approval, to the applicant school. The applicant shall be given thirty days to respond before the Secretary makes a final recommendation regarding approval to the Board. A comprehensive review of programs and operations by a review committee, including a site visit, will not be required.

2224.3. Review

The Secretary shall confer with the Chair of the Board on a regular basis to ensure effective coordination and timely review of applications and reapplications for school approval to promote efficiency in scheduling and expediency in decision-making.

2224.4. Board Approval

The Board shall review each application for approval and consider the report and recommendation of the Secretary. The Board shall make findings listed in (a), (b), and (c) below, as applicable, prior to approval and may set additional conditions for approval in the exercise of its judgment.

(a) The Board shall make the following findings prior to approving any school that submitted a standard application:

1. the description of the school in the approval application is accurate;
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;
3. the school has available support services necessary to meet the requirements of a minimum course of study and its educational purposes, including library services, administrative services, guidance and counseling services, accessible digital, multi-media, and alternate format resources, and a system of records by which student progress may be assessed;
4. the school has classroom, laboratory, library, and other facilities necessary to operate its program;

~~2227.5~~ The, 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:

~~2227.5.1~~ For~~A.~~ 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;~~; and~~

~~2227.5.2~~ For~~B.~~ for all professional staff, relevant experience and/or training ~~in other programs which may or may not be directly related to teaching or the administrative duties to which they are assigned;~~

~~2227.6~~ The, the school has an adequate program of continuing professional staff development as demonstrated in the application;~~;~~

~~2227.7~~ The, the school employs a sufficient number of professional staff for the population served;~~;~~

~~2227.8~~ The, the school substantially complies with all statutory requirements ~~for approved independent schools and the Board's rules for approved independent schools including nondiscrimination in admissions and~~ and fully complies with Sections 2223.1 (General Requirements for Approved Schools), 2223.2.1 (Nondiscrimination Statement and Policy), and 2223.4 (Annual Compliance Assurance), as well as all operations and requirements relative related to student safety, including those related to its facilities, fire drills, and the immunization of its students against disease;

~~2227.9~~ The, the school maintains a register of the daily attendance of each of its enrolled students;~~;~~

~~2227.10~~ The, the school maintains an operating schedule that includes a total number of instructional hours each year that is not less than that required of a public school serving the same grades;~~;~~

~~2227.11~~ The, the school has the financial capacity to carry out its stated objectives for the period of approval. ~~For purposes of these rules, "financial capacity" means that anticipated revenue and funds on hand are sufficient to meet a school's stated objectives.~~

as evidenced by one of the following:

(A) an audit letter by a certified accounting firm from the present or prior fiscal year describing the school's financial capacity;

(B) a notarized letter summarizing the financial status of the present or prior fiscal year signed by the board of directors or governing body of the school;

(C) an audit from the present or prior fiscal year performed by a certified accounting firm; or

(2227.D) a statement of the school's financial capacity submitted by a private, state, or regional agency recognized by the Board for accrediting purposes concerning the school's financial capacity;

~~12. The~~ the school complies with the requirements of 16 V.S.A. §255, et seq. relating to criminal record checks and checks of the Child Protection Registry and the Vulnerable Adult Abuse, Neglect, and Exploitation Registry;

~~2227.13 The~~ the school complies with legal requirements concerning nondiscriminatory school branding;

~~2227.14 The~~ the school has adopted a policy on record maintenance and retention that, at minimum, meets the requirements of these rules;

15. the school promotes an equitable, just, and inclusive community of adults and students, fosters a culture of learning, and inspires students to respect and value diversity in its many forms;

16. the school, with its application, has assured its compliance with Vermont-specific laws and regulations by submitting a compliance assurance form pursuant to Subsection 2223.4. (Annual Compliance Assurance); and

17. if the school seeks approval to receive public tuition and provide special education pursuant to Section 2229 (Approval to Receive Public Tuition; Special Education Approval), the school complies fully with the requirements of Sections 2229 and 2231 (Written Agreements Required), including a specific finding that the school's description of its enrollment policy sufficiently states and describes how it is designed to serve children with disabilities.

(b) The Board shall make the following findings prior to approving any school that submitted an accredited independent school application:

1. the school is accredited and deemed in good standing by a recognized accrediting agency under Section 2227 (Recognized Accrediting Agencies) within the last five years;

2. the application and materials submitted sufficiently demonstrate that the school provides for the timely and confidential disposition of student records in the event of the school's closure; a minimum course of study pursuant to 16 V.S.A. §906;

3. the school, with its application, has assured its compliance with Vermont-specific laws and regulations, including nondiscrimination provisions of these rules, by submitting a compliance assurance form pursuant to Subsection 2223.4 (Annual Compliance Assurance); and

4. if the school seeks approval to receive public tuition and provide special education pursuant to Subsection 2229.6 (Approval to Receive Public Tuition; Special Education Approval), the school complies fully with the requirements of Sections 2229 and 2231 (Written Agreements Required), including a specific finding that the school's description of its enrollment policy sufficiently states and describes how it is designed to serve children with disabilities.

(c) Prior to approving a school's application to receive public tuition pursuant to Subsection 2229.6 (Approval to Receive Public Tuition; Special Education Approval), the Board shall consider the recommendation of the Secretary and find that the school meets all requirements necessary for approval under these rules and applicable sections of Title 16.

(d) The Agency shall maintain a public register of all recognized and approved independent schools and distinguish whether an approved independent school is currently eligible or ineligible to receive public tuition.

2224.5. Continued Approval

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

Section ~~2228~~2224.6. Continued Accreditation

A school accredited by a recognized accrediting agency pursuant to Section 2227 (Recognized Accrediting Agencies) shall notify the Agency within five days of any change to its accreditation status.

2224.7. Reapplication

The Secretary shall notify each school of the date that its approval status will expire not less than six months prior to its expiration and shall provide the date by which its application for reapproval is due to the Secretary. Schools that wish to remain approved without interruption shall follow the Standard Application Process or Accredited School Application Process as it applies to them. The Secretary may extend the reapplication period for good cause. Upon receipt of a complete application for reapproval, the Agency shall conduct its review and issue its report, and the Secretary shall make their recommendation to the Board in a timely manner.

2224.8. Interim Compliance Report from Accrediting Agency

For any school accredited by a recognized accrediting agency under Section 2227 (Recognized Accrediting Agencies) seeking reapplication under Subsection 2224.7 (Reapplication) whose accreditation period exceeds the school's approval period, a supplemental interim report from the accrediting agency must be submitted during the last year of the school's approval by the Board and must provide information necessary to assure the Board that the school meets the approval standards. If such proof of compliance with approval standards cannot be shown, then the school must undergo the application process described in Subsection 2224.1.1 (Standard Application) in seeking continued approval.

Section 2225. Length of Approval -

The State Board may grant initial approval for not more than two years; and renewal of approval for not more than five years.

Section 2226. Termination; Procedures for Revoking or Suspending Approval

2226.1. Termination

Approval of an independent school that fails to complete a timely application for reapproval shall terminate on the date specified in the most recent approval action, provided that the school received notification of the expiration of the approval period required in Subsection 2224.7 (Reapplication).

2226.2. Complaints; Investigations; Due Process Hearings

2226.2.1. Complaints; Reports

(a) Complaints against an approved independent school must be made in writing to the Secretary. The complaint must contain enough detail to show that the school substantially failed to comply with the minimum course of study required, failed to maintain resources required to meet its stated objectives, or failed to comply with statutory requirements or the Board's rules for approved schools.

(b) 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 for Children and Families. Reports concerning the safety of facilities, water supply, electricity, plumbing, or waste disposal systems shall be referred to the appropriate agency. Complaints or reports alleging a violation of nondiscrimination laws shall be referred to the appropriate state or federal agency.

(c) For any complaint or report referred under this subsection, the Secretary shall request that the relevant agency submit a report of its findings and any actions resulting from the referral at the conclusion of the agency's investigation.

2226.2.2. Investigations; Due Process Hearing

(a) The Secretary shall conduct a prompt initial investigation of reports or complaints related to the requirements of this rule and laws that apply to approved independent schools, except for those first referred to other state agencies pursuant to Subsection 2226.2.1(b) (Complaints; Reports). Such investigations shall proceed as follows:

1. The school shall receive notification of the complaint and investigation unless contraindicated by the particular facts. If, following an initial investigation, the Secretary finds a violation of rules or laws that apply to approved schools, the Secretary should first determine whether the matter can be resolved through informal means, such as by provision of regulatory guidance, and confirm that corrective action is taken by the school.

2. If the Secretary determines that informal means are not appropriate to the violation or if the matter has not been resolved informally, the Secretary may place the approved school on probation and notify the Board of this action. An approved school may appeal the imposition of probation to the Board by requesting a hearing as provided in Subsection 2226.3 (Revocation or Suspension of Approval).

3. At any time, the Secretary may conduct a formal investigation without first attempting an informal resolution or imposing probation.

4. If the Secretary determines that a formal investigation is warranted, the Secretary shall appoint a review team of at least two persons that, with the consent of the school, shall include a member of the Council of Independent Schools. The team shall conduct a school visit and shall obtain from the school such information or documentation necessary to perform its assessment. The review team will inform the Secretary and the school of the results of its visit and assessment. The Secretary shall share the findings with the Council of Independent Schools. The Council shall consider the findings from the investigation and the Secretary's proposed resolution and issue a written opinion that shall include minority opinions, if applicable, on the same.

(b) If, after receiving the Council's opinion or a state or federal agency's report pursuant to Subsection 2226.2.1(b) (Complaints; Reports) above, the Secretary determines that revocation or suspension of approval is warranted pursuant to Subsection 2226.3 (Revocation or Suspension of Approval), the Secretary shall notify the Board of the recommendation and provide notice to the school. The Board shall hold a hearing pursuant to 3 V.S.A. Chapter 25 to consider the Secretary's recommendation.

(c) If the Secretary reasonably believes that an approved school lacks the financial capacity to meet its stated objectives during the period of its approved status, including by means of self-report of any of the financial events listed in Subsection 2223.3.2(b) (Financial Capacity, Solvency, and Stability), the Secretary shall so notify the school in writing and shall provide the school a reasonable opportunity to respond. If the Secretary does not find that the school has satisfactorily responded or demonstrated its financial capacity, a formal investigation may be initiated in accordance with (a) above, pursuant to 16 V.S.A. §166(b)(8).

(d) The Secretary shall maintain a register of all complaints that result in imposition of probation or a formal investigation, which are or shall be made a public record consistent with the provisions of 1 VSA §317, and which shall include the general nature of the complaint and action taken by the Secretary or Board.

2226.3. Revocation or Suspension of Approval

(a) After investigation and providing an opportunity for hearing pursuant to Subsection 2226.2.2 (Investigations; Due Process Hearing) the Board may revoke, suspend, or impose conditions on the status of an approved school, including its eligibility to receive public tuition, if it determines that the school has:

1. failed to demonstrate that it has the resources required to meet its stated objectives;
2. failed to comply with a statutory requirement or the Board's rules for approved schools, including failure to submit an annual compliance assurance;
3. failed to report any of the financial events listed in Subsection 2223.3.2(b) (Financial Capacity, Solvency, and Stability); or
4. failed to make an annual enrollment report to the Secretary as required by 16 V.S.A. §166(b)(4).

In considering whether an independent school lacks financial capacity to meet its stated objectives during the period of its approved status and what actions to take, the Board may consult with, and draw on the analytical resources of, the Vermont Department of Financial Regulation.

(b) If a court of competent jurisdiction or a state or federal agency determines after investigation that there are reasonable grounds to believe a school has discriminated against a student or employee in violation of federal or state law, the Board may hold a due process hearing to determine if the school's conduct objectively and substantially undermined or detracted from or interfered with a student's educational performance or access to school resources. If the Board makes such a finding, it may revoke, suspend, or impose conditions on the status of the school, including its ability to receive public tuition. The Board shall consider the status of the underlying case with the court or state or federal agency when deciding whether it would be appropriate to conduct a hearing or to act upon its findings.

Section 2227. Recognized Accrediting Agencies

(a) The Board shall recognize accrediting agencies that meet the following requirements:

1. operate continuously for at least five years prior to applying for recognition under this section;
2. maintain membership in a peer organization that supports accrediting agencies in continuous improvement and alignment with best practices in school accreditation;
3. use a peer review process that includes evaluation by leaders of similar school types;
4. appropriately train all staff and peer reviewers who are involved in the accreditation process;
5. accredit schools based on publicly accessible documented standards, including mission, governance, finance, program, community of the school, administration, development, admissions, personnel, general health and safety, child and student protection and well-being, facilities, student services, school culture, and residential life (as applicable);
6. perform a comprehensive onsite visit of any school seeking accreditation while such school is in session;
7. require that schools seeking accreditation maintain a curriculum that is informed by research, document individual student progress, and have mechanisms for monitoring, assessing, and providing feedback on student progress;
8. require that schools seeking accreditation promote an equitable, just, and inclusive community of adults and students, foster a culture of learning, and inspire students to respect and value diversity in its many forms;
9. conduct ongoing and periodic reviews as necessary throughout the accreditation cycle of the schools that it accredits and provide interim reports during the accredited school's approval period that are sufficient to meet the informational needs of the Board;
10. demonstrate substantial understanding and familiarity with state laws, policies, and regulations that apply to approved independent schools in Vermont; and
11. agree to review and share with the Agency of Education evidence of practices and compliance with state-specific requirements during the initial or interim stages of an approved independent school's accreditation period.

(b) Any accrediting agency seeking to be recognized by the Board under this section shall submit a letter and supporting evidence to the Board detailing the ways in which it meets each criterion. Each applicant shall also provide its methodology for assessing and supporting schools in meeting and advancing diversity, equity, inclusion, and other nondiscriminatory practices. Upon review of each submission, the Board shall determine whether it will recognize the accrediting agency and set the length of time that such recognition will be in effect. The Board may impose additional conditions upon a recognized

accrediting agency as it deems appropriate. Applicants shall be notified of a decision and any conditions of continued recognition in writing.

(c) The Board shall create, and the Agency of Education shall maintain, a publicly available list of currently recognized accrediting agencies that meet the criteria described in subsection (a) above. The Board may remove any agency from the list of recognized accrediting agencies at any time, after finding that it no longer meets one or more of the criteria listed above.

(d) The Board shall continue to recognize any accrediting agency that accredits an approved independent school in Vermont as of April 1, 2024 until December 1, 2024.

Section 2228. Tuition from Public Funds

2228.1. Tuition for Approved Schools in Vermont

Tuition shall not be paid from public funds to any approved independent elementary or secondary school in Vermont unless the school satisfies the requirements in Section 2223 (Requirements to Operate an Approved School) and Section 2224 (Application and Reapplication for Approval; Approval Process), as well as Sections 2229 (Approval to Receive Public Tuition, Special Education Approval-Tuition) and 2231 (Written Agreements Required). Tuition shall not be paid if a school's approval status has been suspended unless and until its approval status has been restored. Notwithstanding this prohibition, public tuition may be paid in cases where:

~~2229.1~~(a) there is an order from a court or from a due process hearing pursuant to Subsection 2365.1.6 (Due Process Complaint Procedures) requiring such payment; or

(b) the Secretary has approved an exception for a placement in an independent school pursuant to Subsection 2230.1 (Exceptional Circumstances – Approval Process).

2228.2. Tuition for Out-of-State Schools

Public tuition to be paid to an independent school located out of state shall be made in accordance with 16 V.S.A. §828.

Section 2229. Approval to Receive Public Tuition; Special Education Approval

For the purposes of this Section 2229 and Section 2231 (Written Agreements Required), the term "independent school approved for public tuition" shall mean an approved independent school that has been determined by the Board to be eligible to receive public tuition because it meets the requirements of both sections. Any reference to "school" in these sections shall also mean "independent school approved for public tuition," unless the context indicates otherwise.

2229.1. Enrollment: Requirements for ~~Approved~~ Independent Schools Approved for Public Tuition, Students, and LEAs.

(a) Each ~~approved~~ independent school approved for public tuition shall ~~publish, maintain and~~ follow, and distribute to prospective students, their families, or members of the student's educational support team, a written enrollment policy, which shall, at minimum, ~~shall~~ provide the following:

- 1) ~~That~~ that the student or the parent of a student seeking to attend the ~~approved~~ independent school shall voluntarily submit an application;

2) ~~Any, any~~ special considerations or requirements for a student's acceptance for enrollment, none of which shall disadvantage a student based on the student's membership in a protected class, the student's actual or suspected disability, or the student's socioeconomic status;

3) ~~The, the~~ school's process for making enrollment decisions when the number of applicants exceeds capacity; and

4) ~~That, that~~ a student shall be accepted for enrollment in a ~~non-~~non-discriminatory manner and consistent with the school's written enrollment policy. No student shall be denied acceptance for enrollment if the reason for denial is that the student is disabled as defined in section 504 of the Rehabilitation Act of 1973, as amended, or that the student is eligible for special education or undergoing the comprehensive evaluation process for special education. No student shall be denied acceptance for enrollment on the basis of the student's race, gender, color, creed, color, religion, national origin, marital status, sex, sexual orientation, or gender identity, disability, or any other classification characteristic protected by state or federal or State law.

(b) Upon ~~the~~ student's acceptance for enrollment, the student's ~~IEP~~individualized education program team shall meet to determine how the student's services shall be provided. The ~~approved-independent~~ school approved for public tuition and the LEA shall follow the procedures in Subsection 2229.4, (Procedures for Ensuring the Provision of Special Education Services to Publicly Funded Students in Approved Independent Schools), after which the student shall be enrolled in the approved independent school or, upon the decision of the hearing officer in ~~Rule~~Section 2229.4(f), below, the ~~IEP~~individualized education program team shall consider an alternative enrollment for the student.

(c) When a publicly funded student seeks to attend an independent school approved independent school for public tuition after the start of the school year, upon the student's acceptance for enrollment, the student shall be provisionally enrolled consistent with the procedures in ~~Rule 2229.4, Subsection 2229.4~~ (Procedure for Ensuring the Provision of Special Education Services to Publicly Funded Students in Approved Independent Schools), during which time the LEA of residence shall agree to pay tuition on the student's behalf until the procedures in 2229.4 have been completed and the student is enrolled, or until the hearing officer issues a decision pursuant to ~~subsection Rule~~Section 2229.4(f), below.

(d) This ~~Rule, Subsection 2229.1,~~ shall not apply to a therapeutic independent school.

2229.2. Staffing.

An ~~approved-independent~~ school approved for public tuition shall demonstrate the ability to serve students with disabilities by employing or contracting with staff who have the required licensure to provide special education services. The school is not required to demonstrate that it has the resources to ~~serve~~provide every ~~category~~type of special education as defined under ~~Board rules~~service in order to be approved or retain its approval to receive public funding for general tuition. Therapeutic independent schools shall have the capacity to serve the needs of students they are designed to serve. The Secretary shall establish minimum standards of services for students receiving special education services in independent schools approved for public tuition in Vermont.

~~The Secretary shall establish minimum standards of services for students receiving special education services in independent schools in Vermont.~~

2229.3. Assurances.

~~The approved~~ An independent school approved for public tuition shall demonstrate that it has the ability to serve all students with disabilities by:

(a) ~~Demonstrating~~ demonstrating an understanding of special education requirements, including:

~~{1} Provision.~~ provision of a free and appropriate public education in accordance with federal and ~~State-state~~ law₂

~~{2} Provision.~~ provision of education in the least restrictive environment in accordance with federal and ~~Statestate~~ law₂

~~{3} Characteristics~~ 3. characteristics and educational needs associated with any of the categories of disability or suspected disability under federal and ~~Statestate~~ law₂, and

~~{4} Procedural.~~ procedural safeguards and parental rights, including discipline procedures, specified in federal and ~~Statestate~~ law₂;

(b) ~~Committing~~ committing to implementing the ~~IEP~~ individualized education program of an enrolled student with special education needs, providing the required services, and appropriately documenting the services and the student's progress₂;

(c) ~~Employing~~ employing or contracting with staff who have the required licensure to provide special education services₂;

(d) ~~Agreeing~~ agreeing to participate meaningfully in a student's individualized education program meetings, to include making every effort to attend scheduled meetings;

(e) agreeing to communicate with the responsible LEA concerning:

~~{1} Development.~~ development of, and any changes to, the ~~IEP~~ individualized education program,

~~{2} Services.~~ services provided under the ~~IEP~~ individualized education program and recommendations for a change in the services provided₂,

~~{3} The.~~ the student's progress₂,

~~{4} Maintenance.~~ maintenance of the student's enrollment in the ~~independent school,~~ and

~~{5} Identification.~~ identification of students with suspected disabilities₂; and

~~(e) Committing~~ (f) committing to participate in dispute resolution as provided under federal and ~~Statestate~~ law and the Board's rules relating to special education dispute resolution.

2229.4. Procedure for Ensuring the Provision of Special Education Services to Publicly Funded Students in Approved Independent Schools *

a(a) The LEA shall be responsible for the administration of the individualized education program of a publicly funded student enrolled in an independent school approved for public tuition.

b(b) Upon the acceptance for enrollment of a student with an individualized education program in an approved-independent school approved for public tuition, the LEA of the student's residence shall convene an IEPindividualized education program or 504 team meeting within 30thirty days. When practical, the meeting shall be held prior to the start of the academic year in which the student is enrolled. The approved-independent school shall designate personnel to participate in the IEPindividualized education program or 504 meeting. At the meeting, the team, which includes the parent, and the student where appropriate, shall determine how to ensure the provision of a free and appropriate public education in accordance with the student's IEPindividualized education program.

b(c) The LEA and the approved-independent school approved for public tuition, together with the student's IEPindividualized education program team, shall work collaboratively to ensure the student's services are provided in accordance with Statestate and federal law. Services shall be provided in a timely manner, beginning with the first day of the school year when possible. It is the intent of the State Board that the LEA and the approved-independent school will identify solutions that minimize the loss of instructional hours to the student. The Agency shall provide technical assistance to the LEA and the approved-independent school upon request.

e(d) For placement purposes under the IDEA, the IEPindividualized education program team shall ensure the IEPindividualized education program process reflects the student's choice of enrollment in the approved-independent school approved for public tuition, notwithstanding SBE RuleSubsection 2364.3(a)(2) (Placements). In this context, "placement" refers not to the specific site of the educational placement, but to the provision of special education and related services. Independent schools approved for public tuition shall follow all applicable federal and state laws regarding the change in placement of a student receiving special education services.

d(e) The student's special education and related services shall be provided in accordance with the student's individualized education program and in the least restrictive environment.

e(f) To ensure the provision of services in the student's IEPindividualized education program, the approved-independent school approved for public tuition and the LEA may use any or all of the methods listed below to ensure the provision of those services, including:

1. The approved-independentthe school recruiting and hiring special education or other professional or paraprofessional staff;
2. The approved-independentthe school contracting directly with service providers to provide the services at the independent-school if the services are not otherwise available at the independent-school;
3. The approved-independentthe school contracting with the LEA to provide the services; and
4. Thethe LEA providing the services at a public school operated by the LEA or another public school.

~~f~~(g) If there is a dispute between the LEA and the ~~approved-independent school~~ approved for public tuition over whether the student's special education services can be provided in accordance with the student's ~~IEP~~individualized education program at the independent school or otherwise, the LEA shall initiate a hearing before an independent hearing officer, the costs of which shall be borne equally between the LEA and the ~~independent school~~, within ~~30~~thirty days of the impasse.

~~g~~(h) If the hearing officer determines the ~~approved-independent school~~ approved for public tuition is unable to provide the required ~~IEP~~individualized education program services due to an inability to retain qualified staff, the LEA shall immediately convene an ~~IEP~~individualized education program meeting to consider alternatives.

1. The ~~approved-independent school~~ approved for public tuition shall not be subject to any disciplinary action or revocation of its approval by the Board under ~~Rule 2223.8~~Subsection 2226.2 (Revocation or Suspension of Approval) due to its failure to enroll or continue to enroll the student.

~~h~~(i) This ~~Rule, Subsection 2229.4,~~ shall not apply to a therapeutic independent school.

2229.5. Payments for Special Education Service Costs Delivered by Out-of-State Programs.

(a) ~~Unless otherwise determined by Subject to the Board, in order provisions of 16 V.S.A §828,~~ for an out-of-state independent school to be approved to receive public funds for special education purposes by the Board, the school shall be approved ~~by~~under the host state rules of its jurisdiction for the purpose of providing special education and related services to children with disabilities within ~~that state, its~~ jurisdiction. Any limitation by the ~~host state~~ jurisdiction on an out-of-state 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.

(b) Rates paid for tuition, room, and board for students receiving special education in out-of-state schools shall not exceed the allowable costs approved by the authorized body in the state jurisdiction where the school is located, except in exceptional circumstances approved by the Secretary.

2229.6. Approval Procedures to Receive Public Funds, Tuition

(a) Application for public ~~fund~~tuition approval shall be made at the time of application under ~~SBE Rule 2223 et seq.~~Sections 2224 (Application and Reapplication for Approval; Approval Process). ~~A~~an independent school that has already obtained ~~independent school~~ approval from the Board may at any time submit an application for public tuition approval to the Secretary.

~~(b) Application for special education funding approval shall be submitted in writing to the Secretary in accordance with the format prescribed by the Secretary.~~

~~(b)~~ The procedures for public tuition approval shall be the same as those for approval in accordance with ~~SBE Rule 2223 et seq.~~Section 2224 (Application and Reapplication for Approval; Approval Process). To the extent possible, these procedures shall occur simultaneously.

2229.7. Notification. Duty to Notify

After receiving approval for public tuition, ~~an approved independent~~ the school shall notify the Secretary within a reasonable time of any significant changes to its special education program, professional staff, governance, financial capacity, or facilities. The Secretary may, upon such notification, gather additional information from the

school, including by means of a site visit. As a result, the Secretary may return to recommend that the Board for a change in the school's approval for public tuition purposes. If the Secretary petitions the Board under Rule 2223.8 for shall employ the same procedures described in Subsection 2226.2.2 (Investigation; Due Process Hearing) to recommend a change to a school's approval status, the Council of Independent Schools and the subject independent school shall be notified and have an opportunity to be heard by the Board. If the school disagrees with the proposed change to its approval status, the Board shall hear provide a hearing on the matter in accordance with Subsection 2226.2.2 and the requirements of SBE Rule Sections 1230, et seq.

2229.8. Minimum Level of Service.

~~Approved~~An independent school approved for public tuition 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 SBE Rule 2231-Section 2231 (Written Agreements Required).

Section 2230. Placement Prohibition.

No responsible agency, as defined by SBE Rule Subsections 2360.3, (Child Find), or LEA shall make a special education placement in an approved independent school that has not been approved ineligible to receive public tuition funds pursuant to the conditions in Rule Section 2229, (Approval to Receive Public Tuition; Special Education Approval), unless the placement is pursuant to:

- (a) Rule Subsection 2230.1; (Exceptional Circumstances – Approval Process);
- (b) A court order; or
- (c) A hearing officer's order.

2230.1. Exceptional Circumstances – Approval Process.

Upon application by a responsible LEA, the Secretary may permit, in exceptional circumstances, a special education placement in an independent school that is has been approved pursuant to SBE Rule Section 2223, et seq. (Requirements to Operate an Approved School) and Section 2224 (Application and Reapplication for Approval; Approval Process), but that has not been approved to receive public tuition under Rule Section 2229. (Approval to Receive Public Tuition, Special Education Tuition). In instances in which the Secretary 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 Secretary's decision may file an appeal with the State Board pursuant to 16 V.S.A. §828.

- (a) Exceptional circumstances exist when:

{1} After, after reasonable efforts, the LEA cannot locate an appropriate public or independent school approved for public tuition and special education purposes pursuant to SBE Rule Sections 2229 (Approval to Receive Public Tuition, Special Education Tuition) to serve children with the category of disability under which the child was determined to be eligible for special education; and

{2} The, the proposed placement is deemed appropriate by the child's IEP individualized education program team.

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

Section 2231. Written Agreements Required.

2231.1 Agreement as to Costs.

(a) In order to obtain approval to receive public tuition, an ~~independent~~approved school shall assure the ~~State Board~~ that, prior to enrolling a child pursuant to ~~Rule Subsection 2229.1, (Enrollment: Requirements for Independent Schools Approved for Public Tuition, Students, and LEAs)~~, the school will enter into a written agreement with the LEA committing to the requirements set forth in ~~SBE Rule Subsection 2229.3 (Assurances)~~ and ensuring that qualified school personnel will attend planning and all ~~IEP~~individualized education program meetings for the student. The agreement shall outline tuition, room, board, and other costs associated with the child's attendance. For children on an ~~IEP~~individualized education program who are placed by a state agency or a designated community mental health agency, or any other agency defined by the Secretary, in accordance with 16 V.S.A. §2948~~72~~, the agreement shall be with the Secretary. In the instance of an emergency placement, such provisions shall be agreed upon within ~~30~~thirty days of the ~~child's~~student's enrollment.

(b) The Secretary shall consult with independent schools in the ~~State~~state and determine maximum rates for tuition, room, and ~~room and board~~ for residential placements. These rates shall be published each year by November ~~30~~30th. Any amount charged by an ~~approved~~approved independent school approved for public tuition shall not exceed the school's actual or anticipated costs of providing special education services to the student and shall not exceed the maximum rates set by the Secretary, provided that the Secretary may permit charges in excess of the maximum rates if the Secretary deems it warranted.

(c) An ~~approved~~approved independent school approved for public tuition that enrolls a student with an ~~IEP~~individualized education program pursuant to ~~Rule Subsection 2229.1 (Enrollment: Requirements for Independent Schools Approved for Public Tuition, Students, and LEAs)~~ may bill the responsible LEA for the excess special education costs beyond those covered by general tuition. Reimbursement of the excess costs shall be based on the direct-cost rates approved by the Secretary for services actually provided to the student consistent with the Agency of ~~Education~~Education's Technical Manual for special education cost accounting.

(d) An ~~approved~~approved independent school approved for public tuition that enrolls a student under ~~SBE Rule Subsection 2229.1 (Enrollment: Requirements for Independent Schools Approved for Public Tuition, Students, and LEAs)~~ shall provide documentation to the Secretary in order to ensure that the amounts charged are reasonable in relation to special education services provided by the school.

(e) The Secretary may withhold, or direct an LEA to withhold, payment under this subdivision pending the Secretary's receipt of required documentation under this subdivision, or may withhold, or direct an LEA to withhold, an amount determined by the Secretary as not reasonable in relation to the special education services provided by the school.

2231.2. Agreement as to Non-Instructional Services.

In order to obtain approval to receive public tuition, an ~~independent~~approved school shall assure the Board that, within thirty days of enrolling a child with an ~~IEP~~individualized education program, the school will enter into a written agreement with the sending LEA or other 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 Secretary, this agreement shall be with the LEA that has educational planning responsibility for the child.

Section 2232. Rate Approval for Therapeutic Approved Independent Schools.

(a) The Secretary shall set, after consultation with independent schools, the maximum tuition rate to be paid by the Agency and supervisory unions or school districts to therapeutic independent schools. The rate for each therapeutic independent school shall be no more than the costs that are reasonably related to the level of services provided by the school.

(b) If a therapeutic independent school does not submit an application for rate approval by November 15, the most recent~~recent~~recently approved rate will be in effect for the following school year. The Secretary may review an approved rate at any time. ~~An approved rate may be reviewed at any time; including~~ on request of the school based on extraordinary circumstances. Therapeutic schools will supply information as requested by the Secretary.

(c) A therapeutic school's most recently approved rate shall be adjusted annually by the Secretary according to the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis. The Secretary shall announce the inflation rate to allow for sufficient time for submission of an application for approval of a new rate under subsection (d) in the event the therapeutic school determines such an application is needed. The annually-inflated rate shall become the most recently approved rate.

(d) A therapeutic school requesting a new rate shall submit an application for approval of a new rate to the Secretary by November 15 for tuition, related services, room, and board based upon the actual or anticipated costs that are reasonably related to providing educational services. Schools that also receive rates from the Agency of Human Services shall submit an application for approval of a new rate to the Secretary by May 1. Reported costs shall be only those that are net of other available restricted revenue sources. To demonstrate that the rate requested by the therapeutic school meets this standard, the therapeutic school shall submit to the Secretary the following:

{1} Costs for each of the following categories, reported at the general ledger account description level, submitted in accordance with the Generally Accepted Accounting Principles published by the Financial Accounting Standards Board:

- (A) ~~Salaries~~salaries for all employees and full-time equivalents, as applicable,
- (B) ~~Program~~program-related ~~Contractual Services~~contractual services,
- (C) ~~Operations~~operations-related ~~Contractual Services~~contractual services,
- (D) ~~General Operating~~general operating,
- (E) ~~Program~~program,
- (F) ~~Travel/Transportation~~travel/transportation,
- (G) ~~Building - Direct~~building - direct,

(H) ~~Building – Allocated~~ building – allocated,

(I) ~~Adminadmin I – Allocated~~ admin I – allocated,

(J) ~~Adminadmin II – Allocated~~ admin II – allocated, and

(K) ~~Fringe – Allocated~~ fringe – allocated.

{2} The school's proposed operational capacity, which shall be supported by a narrative that describes how the proposal reflects relevant circumstances including three-year historic enrollment, student acuity or changes in student acuity, availability of faculty and staff, physical space, anticipated demand for placements or change in anticipated demand for placements, and other considerations.

(e) A therapeutic school submitting an application for rate approval for the first time may submit the application at any time pursuant to this subsection.

(f) If the Secretary determines an application for new rate approval submitted under subsection (d) is incomplete, then the therapeutic school shall have 10 working days to complete the application following notice that its application is incomplete.

(g) The Secretary shall evaluate each element of the application for new rate approval submitted pursuant to subsection (d) and determine whether the school has demonstrated that the cost associated with each element is reasonably related to the level of services provided by the school. In determining whether a cost is reasonably related to the level of services, the Secretary will consider the following: direct-cost rates approved by the Secretary pursuant to 16 V.S.A. §2973-~~(b)~~, costs approved for other therapeutic schools, regional differences in costs, demonstrated difficulty filling certified or licensed positions, tenure of faculty and staff, student acuity, educational model, students' need for stability in educational placement, and other aspects of program and student need documented in the application. Prior to conducting cost comparisons with applicant data, the Secretary shall:

~~{1} Establish~~ establish standards for developing and applying a database of comparable information to be utilized in rate determinations, and publish the standards on the Agency's website;

~~{2} Annually~~ annually update the database of comparable information; and

~~{3} Implement~~ implement a procedure to document and retain the process and basis for each determination, including the comparable data applied.

(h) The Secretary shall determine the rate on a per-student basis by dividing the total costs determined in subsection (g) by the school's approved operational capacity, which shall be determined by the Secretary from the information provided in subsection (d){2}.

(i) The Secretary shall notify a therapeutic school that has submitted an application for new rate approval pursuant to subsection (d) of the final rate approval by January 15.

(j) After the Secretary approves a rate for a therapeutic school, the school shall not exceed that rate until such time as a new tuition rate is approved by the Secretary. In the case of a service required by a student's ~~IEP~~ individualized education program that is not included within the school's approved rate, the LEA shall decide whether to contract for the service with the therapeutic school. The LEA shall provide notice of its decision to the Secretary within 5 days.

(k) A therapeutic school that is not satisfied with the final rate may request reconsideration by the Secretary. Requests for reconsideration shall be made in writing to the Secretary within ~~30~~ thirty days of the final rate approval. Upon receiving the Secretary's answer regarding reconsideration, if the therapeutic school is not satisfied, it may file an appeal with the ~~State Board~~ in accordance with the requirements of ~~SBE Rule~~ Section 1230, et seq. Alternatively, a therapeutic school may appeal to the ~~State Board~~ pursuant to ~~SBE Rule~~ Section 1230, et seq. without first seeking reconsideration by the Secretary. The ~~State Board's~~ determination of the appeal shall be final.

Section 2233, Standards and Regulations.

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

~~CORRECTIONS PROGRAMS~~

Section 2234, Corrections Education Program.

The Secretary shall conduct a review of the Corrections Education Program in accordance with the procedures and standards contained within ~~SBE Rules~~ Sections 2220 through 2229.

~~TUTORIAL PROGRAMS~~

Section 2235, Approval of Tutorial Programs.

Statutory authority: 16 V.S.A. §828.

2235.1, Definitions.

"Tutorial program" means education provided to a student who is placed in a short-term program that is not administered by an 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 Secretary may waive the average length of stay time period for individual programs, based upon needs of the children served by the program.

2235.2, Procedures for Approval

2235.2.1, Application.

An application for approval or renewal of approval as a tutorial program 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's enrollment, including a statement of whom it is designed to serve.

(e) A description of the plan of organization for the tutorial program.

(f) A tutorial program calendar.

2235.2.2. Review.

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

2235.2.3. Report to the Secretary.

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

2235.2.4. Board Action.

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

2235.2.5. 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.

2235.2.6. Renewal.

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

2235.2.7. Denial, Revocation, or Suspension of Approval.

Prior to recommending denial, revocation, or suspension of approval to the ~~State Board~~, the Secretary 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.

2235.2.8. Standards and Regulations.

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

2235.3. Criteria for Approval.

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

(a) 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 subsection (j) below.

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

(c) The tutorial program's facilities and operation comply with local, State, and federal requirements pertaining to the health and safety of children.

(d) 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 to which they are assigned.

(e) 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.

(f) All professional staff have relevant experience and/or training in the duties to which they are assigned.

(g) The tutorial program maintains a register of the daily attendance of each of its students and reports the attendance to the responsible LEA.

(h) 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~~individualized education program.

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

(j) 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 the Department for Children and Families, community mental health centers, and family-parent child centers by:

(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.

(2) Reviewing the ~~IEP~~individualized education program, the child's needs, and the tutorial's own ability to implement the ~~IEP~~individualized education program.

(3) Making a formal referral for a special education evaluation to the responsible LEA, if when receiving a child, the child is suspected of having a disability.
~~a child, the child is suspected of having a disability.~~

(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.

(5) Participating in evaluation procedures and in the development of ~~IEPs~~individualized education programs, including plans for reintegration and transition services.

(6) Implementing ~~IEPs~~individualized education programs.

(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.

(k) 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 each of the following areas:

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

2235.4. Rate Approval for Non-Residential Tutorial Programs.

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

(b) 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.

(c) The Secretary shall review each tutorial program's annual rate report. If the Secretary concludes that a tutorial program's rates are not reasonably related to the services provided, the Secretary shall make a determination as to the maximum rate that public school districts and the Agency would pay to the tutorial program for those services and offer the tutorial program an opportunity for explanation regarding why the maximum rate the Agency would pay is not adequate. If the explanation is not satisfactory, the Secretary shall refer the matter to the State Board.

- (1) Upon such referral by the Secretary, the State Board shall conduct a formal proceeding in accordance with the requirements of ~~SBE Rule~~ Sections 1230, et seq.
- (2) The State Board's determination shall be final.

~~DISTANCE LEARNING SCHOOLS~~

~~Section 2236. Approval of Distance Learning Schools.~~

~~Section 2237. Statutory Authority.~~

16 V.S.A. § 166.(b)(6).

~~Section 2238. Definition.~~

A "~~"Distance Learning School"~~" means an independent school that offers a program of elementary or secondary education through correspondence, electronic mail, satellite communication, or other means and that, because of its structure, does not meet some or all the rules of the State Board for approved independent schools and is ineligible to receive public tuition payments pursuant to 16 V.S.A. § 166-~~(b)(6)~~.

Section 2239, Procedures and Standards.

The distance learning school shall meet the procedures and standards set forth in ~~Rules~~Sections 2220-2228 above that, because of its structure, can be applied, and the following rules:

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

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

(c) The distance learning school offers an educational program that 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.

(d) 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.

(2) Measure student progress to ensure that students continue to benefit from such instruction.

(e) 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.

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

(g) Tuition:

(1) Tuition policies, including tuition collection practices, are written, clear, and provided to parents in advance of enrollment, including notification that the school shall not be eligible to receive tuition payments from school districts pursuant to 16 V.S.A. § 166-~~(b)~~(6).

(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.

(h) In the event that the school closes, the distance learning school has policies for:

(1) Tuition adjustment or refund.

(2) Preservation and release of student records.

~~**POST-SECONDARY SCHOOLS**~~

~~**Section 2240, Certification of Post-Secondary Schools.**~~

2240.1. Definitions.

(a) "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.

(b) "A post-secondary school whose primary operation is in the State of Vermont" means a post-secondary school that offers the majority of its courses in an institution in Vermont or that maintains its principal administrative offices in Vermont and offers post-secondary courses in Vermont.

(c) "Confer a degree" and "degree-granting authority" means 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 that 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.

(d) "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.

Section 2241. Certification of Post-Secondary Schools Chartered in Vermont.

2241.1. Statutory Authority.

16 V.S.A. § 176.

2241.2. [Repealed].

2241.3. Application for Certificate of Approval.

A person desiring a certificate of approval or certificate of degree-granting authority from the State Board shall file an application with the Secretary prior to offering post-secondary credit-bearing courses or programs and prior to admitting its first student. The application shall indicate the certification sought and shall include a description of the school that 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) that 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 physical plant, library, and equipment.

(i) A description of academic programs, including their level, site, and length. The application shall set forth the minimum credit requirements, if any.

(j) A statement regarding the school's professional staff, including its policies 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) The official website address, 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) through online delivery or by correspondence, a description of those activities and proof of relevant licensure.

(n) 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.

Section 2242_ Certification of Post-Secondary Schools Not Chartered in Vermont.

2242.1_ Statutory Authority.

16 V.S.A. § 176.a.

2242.2_ Application for Certificate of Approval.

A person desiring a certificate of approval from the State Board shall file an application with the Secretary prior to admitting students. A person may file an application for a certificate of degree granting authority at any time but may not admit students without having received a certificate of approval and may not confer or offer to confer a degree without having received a certificate of degree granting authority unless exempt under ~~SBE Rule~~Subsection 2240.1, subsection (c). The application shall include a description of the school that 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) that 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 physical plant, library, and equipment.
- (i) A description of academic programs, including their level, site, and length. The application shall set forth the minimum credit requirements, if any.
- (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) through online delivery or by correspondence, a description of those activities and proof of relevant licensure.
- (n) 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) Documentation of accreditation by any regional, national, or programmatic institutional accrediting agency recognized by the U.S. Department of Education.

2242.3 Registration.

A post-secondary school seeking continued operation in Vermont after initial approval from the State Board shall register with the Agency within one-year of receiving approval from the State Board and annually thereafter on or before September 1. Registration shall be on a form prescribed by the Secretary.

Section 2243_ Review Process for Post-Secondary Schools Chartered In and Outside Vermont.

2243.1_ Review of Application for Certificate of Approval for Schools Chartered In and Outside Vermont.

Upon receipt of an application for a certificate of approval, the Secretary shall appoint a review team of no fewer than two individuals. The Secretary 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 by, if necessary, visiting the school. The team shall present a written recommendation regarding certification to the Secretary within ~~90~~ninety days of the receipt of the completed application unless a longer period is required and explained in writing to the applicant. A copy of the recommendation shall be provided at the same time to the applicant. The applicant shall be given ~~30~~thirty days to respond and, if requested, shall be afforded a hearing before the Secretary or his or her designee before a recommendation regarding certification is made by the Secretary to the ~~State Board~~.

2243.2_ Review of 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 ~~SBE Rule~~Subsection 2243.6, subsection (a) are met, the Secretary shall contact the Vermont Higher Education Council, which shall review the application and determine the accuracy of its contents by, if necessary, visiting the school. The Secretary may also appoint independent reviewers to accompany representatives of the Vermont Higher Education Council reviewing the school. The Vermont Higher Education Council shall present written recommendations regarding certification to the Secretary within ~~90~~ninety 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 Secretary, may either join in the recommendations of the Vermont 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 Secretary. The applicant shall be given ~~30~~thirty days to respond to the recommendations and, if requested, shall be afforded a hearing before the Secretary or his or her designee before a recommendation regarding certification is made by the Secretary to the ~~State Board~~. The ~~State Board~~ shall be provided with a copy of the recommendation of the Vermont 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 Secretary 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. Any school seeking renewal that has obtained initial approval to offer or operate a program of college or professional education for credit or degree on or after January 1, 2015, shall obtain accreditation from an accrediting entity recognized by the U.S. Department of Education, in order to be considered eligible for renewal by the ~~State Board~~ within the first ~~10~~ten years of operation.

2243.4_ Costs of Review.

Post-secondary schools seeking a certificate of approval or renewal thereof shall be responsible for payment of fees as detailed in 16 V.S.A. §177. to the Agency to cover the costs of services related to the certification. In addition, the applicant shall separately reimburse the non-Agency site visit review team members for travel, food and, lodging expenses associated with evaluation costs. Schools seeking a certificate of degree-granting authority shall be responsible for payment of fees as detailed in 16 V.S.A. §177. to the Agency, a portion of

which will be paid to the Vermont Higher Education Council to cover the costs of certification. In addition, the applicant shall separately reimburse individuals serving on the review team for 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.

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 that 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 or program. The plan shall specify the dollar amounts and proportions of income by source, including:

- (1) Tuition and fees.
- (2) Other school-generated funds.
- (3) Federal or State funds.
- (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 that 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 on the school's website and in a general catalogue, bulletin, or other public information document provided to prospective students prior to enrollment.

- (a) Name and physical 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) A statement of the certificates or diplomas awarded upon graduation, if any.
- (o) A statement of the 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) The system of grading or evaluation.
- (q) The school's policy establishing standards for determining adequate progress.
- (r) The availability and extent of student services such as job placement services, 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 Veteran's Affairs-approving agency course approval, and State certification.

(u) The school's policy regarding the refund of tuition and other fees collected in advance of enrollment or class attendance.

(v) The school's "closing" policy establishing procedures that 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) 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 that believes that one or more of the above requirements for certification should not be applied to it may request in writing that such requirement be waived in its application for certification. Requests for waivers must accompany the application. 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:

(a) 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.

(b) Schools desiring to offer an associate degree shall provide and require completion of a minimum of 60 semester credit hours or equivalent learning experiences.

(c) Each educational program leading to a baccalaureate degree shall provide and require a minimum of 120 semester credit hours or equivalent learning experiences.

(d) 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 that has been granted either a certificate of approval or a certificate of degree granting authority 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 that 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 such as changing from an associate to an undergraduate degree program, or adding a new graduate degree program, or a new 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 Secretary shall notify the school in writing of the reasons for the proposed action. The school shall be given ~~30~~thirty days to respond, and, if requested, shall be afforded a hearing before the Secretary or the ~~Secretary's~~Secretary's 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, including:

- (a) Failure of the school to continue to meet criteria for certification herein specified.
- (b) Failure of the school to meet the 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.
- (g) Refusal to permit team evaluation or other investigations provided for under these rules.
- (h) Change in accreditation status.

2243.8.3 Investigations.

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

2243.8.4. Loss of Recognition for Accreditor.

(a) In the event an accrediting entity is no longer recognized by the U.S. Department of Education, any post-secondary school having received accreditation from such entity shall:

- (1) Notify the ~~State~~ Board in writing within ~~30~~thirty days of receiving notice or information of such loss of recognition.
- (2) Apply for accreditation with a recognized accreditor at least ~~90~~ninety days before the school's existing accreditation expires.

(b) The post-secondary school may continue to operate under its approval by the State Board pending receipt of its new accreditation, but in no case longer than ~~24~~twenty-four months. The State Board may extend this period upon request of a post-secondary school going through the accreditation process.

Section 2250. Preservation of Post-Secondary Institutions' Student Records.

Statutory Authority: 16 V.S.A. §175.

2250.1. General.

Institutions of higher education are required to maintain their student academic records in a form prescribed by the State Board. The Agency is authorized to ensure 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 in a satisfactory form should the institution discontinue operation. At a minimum, the records shall be kept current and preserved against damage or loss.

2250.2.1. Monitoring.

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

2250.2.2. Return of Records.

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

2250.2.3. 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~~ and these rules.

2250.3. Form and Contents of Academic Records.

The permanent academic record of each student registered for credit at a post-secondary institution that operates in this State, whether or not such institution is chartered in this State, shall contain at a minimum:

- (a) The identification of the institution.
- (b) The identification of the student.
- (c) 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.
- (d) Periods of enrollment covered by subsection (c) above.
- (e) The student's status at the close of the last period of enrollment.
- (f) The degree and/or certificates awarded.

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

[Section 2260 to 2265 Repealed by Operation of Law.]

Section 2266_ Post-Secondary Online or Correspondence Schools_

An online or correspondence school that offers post-secondary credits or degrees shall also meet the applicable requirements of 16 V.S.A. §§176_ and 176a.

KINDERGARTENS

Section 2270_ Private Kindergarten Approval_

Statutory Authority: 16 V.S.A. §166_((b)).

Section 2271_ Procedure for Approval_

2271.1_ Application_

Every person or entity seeking to operate as an approved kindergarten shall apply in writing to the Secretary. An application for approval shall contain the following:

- (a) The name and address of the school.
- (b) A description of the school's curriculum and methods of instruction.
- (c) A description of the school's physical facilities.
- (d) A list of the school's staff and their qualifications.
- (e) The operating schedule of the school_
- (f) A statement certifying that the school is in compliance with the Kindergarten Nursery School provisions in the Regulations for Day Care of the Department for Children and Families. (hereinafter "D.C.F. Kindergarten Regulations").

2271.2_ Appointment of Reviewer

Upon receipt of an application for approval, the Secretary shall appoint an educator to review the application and visit the school. In addition, the Secretary shall contact D.C.F. to determine on his or her behalf whether the school meets the "D.C.F. 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~~publicly supported kindergarten.

2271.3_ Review_

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

2271.4_ Report to the Secretary_

The appointed educator shall present a written report including a recommendation regarding approval to the Secretary. The report of the appointed educator shall incorporate the determination of D.C.F. concerning

compliance with the "D.C.F. Kindergarten Regulations". A copy of the report and recommendation shall be provided at the same time to the applicant.

2271.5. Secretary's Recommendation.

The Secretary shall recommend approval or disapproval for action by the State Board at its next regular 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:

(a) The curriculum ~~embodies~~ provides a minimum course of study, as defined in 16 V.S.A. §906., Courses of Study, with learning experiences adapted to a student's age and ability.

(b) The school is in compliance with ~~State~~ state requirements pertaining to the health and safety of students adopted by the Department of Labor and ~~Industry~~ and the Department of Health. In ~~regards~~ regard 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.)

(c) The director and teachers in the kindergarten are qualified through training or experience in:

(1) Structuring kindergarten learning environments that enhance cognitive and social development.

(2) Teaching skills and concepts in mathematics, language arts, science, the arts, and health that are consistent with principles of child development.

(3) Planning and leading activities that foster social and emotional growth in young children.

(4) ~~Dealing~~ Engaging with parents and family of children to ensure home support and to promote learning outside of the school or center.

(5) Identifying developmental delays in young children.

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

(e) The facility and program meet the "D.C.F. Kindergarten Regulations."

Section 2273. Additional Requirements.

2273.1. Records.

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~~ 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. Professional Development.

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

Section 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.

Section 2275. Revocation or Suspension of Approval.

Prior to recommending revocation or suspension of approval to the State Board, the Secretary 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.

~~STATUTORY AUTHORITY:~~

~~16 VSA §§166, 175, 176, 176a, 828, 2958, 2973~~

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

~~AMENDED: January 25, 1996 Secretary of State Rule Log #96-03; May 6, 1996 Secretary of State Rule Log #96-28; May 9, 1997 Secretary of State Rule Log #97-14; August 5, 1999 Secretary of State Rule Log #99-39; August 24, 2006 Secretary of State Rule Log #06-023 [2224.2; 2228; 2229; 2230]; September 17, 2007 Secretary of State Rule Log #07-033 [2224, 2228]; June 10, 2010 Secretary of State Rule Log #10-011 [2224; 2228; 2229; 2230]; March 15, 2017 Secretary of State Rule Log #17-006; June 10, 2022 Secretary of State Rule Log #22-017~~

Section 2776. Rule of Construction

This rule shall not be construed to impose obligations on schools that are inconsistent with that school's constitutional or statutory rights. In addition, this rule shall not be construed to restrict any student's constitutional or statutory rights.

Section 2277. Effective Date

Amendments to all Sections shall become effective July 1, 2024, except that Subsections 2223.3.3(b) (Instructional Strategies) and 2223.3.3(c)(1) (Curriculum Content) will take effect on July 1, 2025.

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Vermont State Board of Education

Rule Series 2200 – Independent School Program Approval

CVR 22 000 004

FINAL RULE APPROVED BY BOARD VOTE 4/17/2024

Rule 2200. Independent School Program Approval

Section 2220. Statement of Purpose

The purpose of the independent school program approval rules is to assure effective, accessible, and equitable educational opportunities that are anti-racist, culturally responsive, anti-discriminatory, and inclusive for students enrolled in Vermont's approved independent schools in accordance with state and federal law and aligned with the purposes set forth in Act 173 of 2018 and Act 1 of 2019.

These rules are organized to provide clarity to independent schools regarding requirements for initial and continued approval to operate and, if applicable, to receive public funds. Accrediting agencies that satisfy the standards set forth herein in Section 2227 (Recognized Accrediting Agencies) will be recognized and the schools they accredit will enjoy an accelerated approval process. Ongoing compliance with state and federal laws and regulations is expected through an annual compliance assurance.

These rules prohibit, to the fullest extent allowed by law, discrimination against any student pursuing an education or participating in the general life or activities of a school because of or based on any actual or perceived protected class consistent with state and federal law. No student shall be unlawfully excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity as the result of, or based upon, the student's race, gender, color, creed, religion, national origin, marital status, sexual orientation, gender identity, or disability, or any other reason set forth in state or federal law.

In addition to the non-discriminatory protections in Subsection 2223.2 (Nondiscrimination Requirements for Approved Schools), discriminating against any student pursuing an education or participating in the general life or activities of a school as a result of or based upon ethnicity, caste, language and linguistic diversity, socio-economic status, housing status, or non-citizenship or immigration status, is contrary to the Board's intent that all students experience an equitable, anti-racist, culturally responsive, anti-discriminatory, and inclusive learning environment.

These rules further require all schools to strive for a culturally responsive pedagogy that critically examines and imparts a comprehensive historical and socially conscious understanding of:

- (a) the causes and effects of bias and discrimination as a result of, or based upon, the reasons set forth in Subsection 2223.2 (Nondiscrimination Requirements for Approved Schools) and in this Statement of Purpose;
- (b) why all persons should have equitable access to social and economic opportunity;
- (c) why persons and institutions must identify and prevent individual, group, and systemic racism, discrimination, and other forms of unfair treatment; and

(d) the positive and multi-faceted contributions of different social, cultural, racial, linguistic, ethnic, and indigenous groups to the historical and ongoing project of building and strengthening democracy in the United States and globally.

Nothing herein shall be construed to entitle any student to educational programs or services identical to those received by other students in the same or different schools. These rules are in addition to and, unless otherwise specifically stated, do not supersede other rules adopted by the Agency or Board. Nothing herein shall create a private right of action.

Section 2221. Statutory Authority

16 V.S.A. §§164(14), 166, 2958(e), 2959, and 2973; Act No. 173 (2018); Act No. 1 (2019).

Section 2222. Definitions

“Agency” means the Vermont Agency of Education.

“Anti-discriminatory” practices are actions, behaviors, programs, and policies by school staff, students, school directors, contractors, and community members involved in the daily operations of schools that are necessary to counter discrimination and that promote a fair, just, and equitable learning environment for all students.

“Anti-racist” practices are actions, behaviors, programs, and policies designed and/or implemented by school staff, students, school directors, contractors, and community members involved in the daily operations of schools that are necessary to counter racism and that promote a racially inclusive learning environment for all students.

“Approved Independent School” means any approved independent school that meets the requirements of Sections 2223 (Requirements to Operate as an Approved Independent School) and 2224 (Application and Reapplication for Approval; Approval Process) of these rules. An approved independent school is not eligible for public tuition unless it meets the requirements of Sections 2229 (Approval to Receive Public Tuition; Special Education Approval) and 2231 (Written Agreements Required).

“Board” or “State Board” or “SBE” means the Vermont State Board of Education.

“Caste” refers to a hierarchical social system of exclusion and dehumanization based on notions of purity and contamination. Those who suffer the stigma of caste are often deprived of or severely restricted in the enjoyment of their civil, political, economic, social, and cultural rights.

“Civic and Community Engagement” refers to individual and/or collective actions that identify and address issues of public importance and that provide people with opportunities that contribute to the current and future development of their communities and a democratic society. Civic and community engagement can take place in a variety of formal and informal settings, including but not limited to, those in governance and electoral politics, educational, cultural, and recreational activities, community service, and social justice movements.

“Critical thinking” is the objective examination of an issue to discern or form a judgment based on evaluating evidence, checking assumptions, and adopting multiple perspectives to better understand the question at hand.

“Culturally and Linguistically Diverse Students” are those who are members of home, cultural, or social environments whose experience and success is enhanced by schools demonstrating respect for a multitude of linguistic competencies and fostering systems of academic and social inclusion that acknowledge the

fundamental importance of such competencies. Linguistic competencies are cultural and linguistic resources that students, families, and communities draw upon, including, but not limited to, a variety of languages, including Indigenous languages, multiple-sign languages, and African American Vernacular English and other dialects.

“Culture” refers to a set of distinctive spiritual, material, religious, intellectual, creative, and emotional attributes of a society or social group and encompasses, in addition to art and literature, lifestyles, ways of living together, values, traditions, and beliefs.

“Discrimination” refers to any exclusion, restriction, or preference based on any protected class as identified in state or federal law. Discrimination may be practiced by individuals and groups and may also be expressed systemically through the structures, laws, practices, and policies of public and private institutions, employers, and organizations.

“Equity” or “Equitable,” as referenced in these rules in relation to schools or educational programs, results in each student receiving the resources and educational opportunities to learn and thrive in all aspects of learning, school life, career technical education, and community-school interactions, and to discover and cultivate their talents and interests. To be achieved, equity requires an inclusive school environment and may necessitate an unequal distribution of resources and services based on the needs of each student.

“Ethnicity” embodies a wide range of criteria used to identify ethnic groups, such as a common history, ancestry or culture, national, social, or geographic origin, skin color, languages, religions, tribe or indigenous people (including the Indigenous Peoples of Vermont), or various combinations of these characteristics, and may reflect a legally protected class of people in some contexts.

“Inclusion” or “Inclusive” practices, as used in this rule, are school-based curricula, programs, activities, resources, and policies that ensure that academic learning, co-curricular and social offerings, and all other aspects of school life are based on the values of equality, equity, social and cultural diversity, freedom, and dignity, so that all students are valued as unique individuals and can achieve their full academic and social potential.

“Independent School Approved for Public Tuition” means an independent school that meets the requirements in Sections 2223 (Requirements to Operate as an Approved Independent School) and 2224 (Application and Reapplication for Approval; Approval Process), as well as the requirements in Sections 2229 (Approval to Receive Public Tuition; Special Education Approval) and 2231 (Written Agreements Required).

“Individualized Education Program” or “IEP” means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with Section 2363.

“Language” refers to systems of conventional and unconventional spoken, visual-manual, technological, and written symbols that human beings use personally and as members of social and cultural groups to express themselves, shape identity, acquire knowledge, mediate power, play, create, imagine, build and sustain familial, social, and cultural bonds, and express a wide range of personal needs, aspirations, and emotions.

“Linguistic Diversity” refers to the immense body of diverse and complex systems of communication and expression (e.g., official languages, endangered languages, indigenous and minoritized languages, dialects, and non-verbal languages and communication), the respect for and preservation of which is fundamental to

students' experience and academic success; eradicating bias, racism, and discrimination; and fostering practices and systems of inclusion, equality, equity, and diversity in our schools and communities.

"Local Education Agency" or "LEA," as that term is defined in 20 U.S.C. §7801(26), means the supervisory union or supervisory district.

"Needs-Based Professional Learning" refers to staff learning based upon needs identified through an examination of student performance and organizational and instructional data, and which is aligned with the school's curriculum and pedagogical practices.

"Neurodiversity" refers to the natural and important variation in how human minds think and is not to be cured or corrected to fit social norms. These differences can include, but are not limited to, autism, attention deficit hyperactivity disorder, dyspraxia, dyslexia, dyscalculia, and Tourette Syndrome.

"Race" embodies an invented or socially constructed concept that is used to categorize groups and cultures on the basis of physical differences transmitted through descent, like skin color, and may reflect a legally protected class of people in some contexts.

"Racism" embodies the theory, belief, or act of making value judgements that are based on racial, ethnic, or cultural differences, or which advances the claim that racial, ethnic, or cultural groups are inherently superior or inferior, thus explicitly arguing or implying that some groups are entitled to dominate, exploit, exclude, or eliminate others presumed to be inferior. Racism is practiced by individuals and groups, and it is expressed systematically through the structures, laws, regulations, practices, and policies of public and private institutions, employers, and organizations.

"Recognized Independent School" means an independent school that meets the requirements in 16 V.S.A. §166(c). A recognized independent school is not eligible to receive public tuition.

"Restorative Practices" refer to whole-school, relational approaches to building school climate and addressing student behavior that fosters belonging over exclusion, social engagement over control, and meaningful accountability over punishment. They encourage members of the school community to be constantly present, attending to needs as they arise. They exercise the ability to be dynamic rather than static in a given response. Restorative approaches also begin with proactive structures to build positive relationships and communication and create a space for people to express themselves—their strengths, assets, responsibilities, and also their vulnerabilities. Neither restorative approaches, practices, processes, nor programs shall remove or lessen to any degree a school's responsibility under Vermont law and policy to investigate, call out, name, and discipline behaviors that violate the Agency's "Policy on the Prevention of harassment, Hazing, and Bullying" (HHB) and Federal Title IX.

"Secretary" means the Secretary of Education or their designee.

"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 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 to ensure access by 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 Subsection 2360.2.12.

“Student who Requires Additional Support” means a student who meets the criteria defined in 16 V.S.A. §2942(8).

“Therapeutic Approved Independent School” or “Therapeutic Independent School” or “Therapeutic School” means an approved independent school that limits enrollment to students who are on an individualized education program 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 and the school. These schools are eligible to receive public tuition, which is inclusive of both general and special education services, at a rate approved by the Agency of Education.

“Tuition” means funds paid by a school district to an approved independent school for general education in accordance with Section 2228.

Section 2223. Requirements to Operate as an Approved Independent School

Every person or entity desiring to operate an elementary or secondary school as an approved independent school shall apply in writing to the Secretary and meet the requirements of law and Sections 2223 (Requirements to Operate as an Approved Independent School) and 2224 (Application and Reapplication for Approval; Approval Process) of these rules. Approved independent schools shall be permitted to operate, in accordance with these rules, for a term of five years or less, as set by the Board, and may submit a new application for approval (reapproval) prior to the expiration of each term. The Board may revoke, suspend, or impose conditions upon an approved independent school according to process set forth in these rules. An approved independent school is not eligible to receive public tuition unless it also meets the requirements of Section 2229 (Approval to Receive Public Tuition; Special Education Approval) and Section 2231 (Written Agreements Required).

2223.1. General Requirements for Approved Schools

All approved independent schools must comply with statutory requirements and the Board’s rules for approved independent schools and must provide a minimum course of study pursuant to 16 V.S.A. §906. An approved independent school must have the resources required to meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and special services that are in accordance with state and federal laws and regulation.

2223.2. Nondiscrimination Requirement for Approved Independent Schools

No student shall be unlawfully excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity as the result of, or based upon, the student's race, gender, color, creed, religion, national origin, marital status, sexual orientation, gender identity, or disability, or any other reason set forth in state or federal law.

2223.2.1. Nondiscrimination Statement and Policy

(a) Statement. Each approved independent school shall, to the fullest extent consistent with its constitutional and statutory rights, maintain a statement of nondiscrimination that complies with the

Vermont Public Accommodations Act, Title 9 Vermont Statutes Annotated, Chapter 139, and the Vermont Fair Employment Practices Act, Title 21 Vermont Statutes Annotated, Chapter 5, Subchapter 6. The school shall abide by its nondiscrimination statement in all aspects of its recruitment, enrollment, operation, and employment activities.

(b) Policy. Each approved independent school shall maintain, follow, and distribute to students and families of enrolled or prospective students, or the student's education support team, policies that implement the school's nondiscrimination statement.

2223.3. Specific Requirements for Approved Independent Schools

Each approved independent school shall maintain a safe, accessible, orderly, civil, flexible, and positive learning environment, free from harassment, hazing, and bullying. Educational opportunities shall, consistent with state and federal law, be provided in an equitable, anti-racist, culturally responsive, anti-discriminatory, and inclusive manner, based on sound instructional and classroom management practices and clear discipline and attendance policies that are consistently and effectively enforced.

2223.3.1. Physical Facilities

Each approved independent school must ensure that its physical facilities, including plant, materials, and equipment, meet all applicable state and federal requirements pertaining to the health, safety, and privacy of students.

(a) Each residential school must arrange, on an annual basis, a fire safety inspection performed by the Department of Public Safety or its designee. A certificate executed by the inspecting entity, declaring satisfactory completion of the inspection and identifying the date by which a new inspection must occur, shall be posted at the school in a public location. The school shall provide a copy of the certificate to the Secretary of Education after each annual inspection. The school shall pay the actual cost of the inspection unless waived or reduced by the inspecting entity.

(b) Each approved independent school must have classroom, laboratory, library, and other facilities necessary to operate its program.

2223.3.2. Financial Capacity, Solvency, and Stability

An approved independent school must maintain the financial capacity to meet its stated objective during the period of its approved status and must adhere to all applicable financial reporting requirements. For purposes of these rules, "financial capacity" means that anticipated revenue and funds on hand are sufficient to meet a school's stated objectives.

(a) Each approved independent school must file federal and state tax returns when due, unless an extension is granted; meet payroll and state and federal payroll tax obligations as they are due; maintain required retirement contributions; ensure that designated funds are not used for non-designated purposes; fully comply with the financial terms of its secured installment debt obligations; and not become insolvent as defined by 9 V.S.A. §2286(a).

(b) An approved independent school shall report to the Secretary within five days after its knowledge of any of the following events, unless the failure is de minimus:

1. the school's failure to file its federal or state tax returns when due, taking into account permissible extensions of time;

2. the school's failure to meet its payroll obligations as they are due or pay federal or state payroll tax obligations when due;
3. the school's failure to maintain required retirement contributions;
4. the school's use of designated funds for non-designated purposes;
5. the school's inability to fully comply with the financial terms of its secured installment debt obligations over a period of two consecutive months, including the school's failure to make interest or principal payments as they are due or to maintain any required financial ratios;
6. the withdrawal or conditioning of the school's accreditation on financial grounds by a private, state, or regional agency recognized by the Board for accrediting purposes; or
7. the school's insolvency as defined in 9 V.S.A. §2286(a).

(c) Approved independent schools are encouraged to employ generally accepted accounting principles (GAAP).

2223.3.3. Instruction, Faculty, and Special Services

To demonstrate that it provides a minimum course of study as defined by 16 V.S.A. §906, an approved independent school must maintain a written description of its curriculum, methods of instruction, evaluation procedures, and the special services that it has designed to achieve its educational objectives.

(a) Professional Staff.

1. The school must employ a sufficient number of professional staff for the population served who are qualified by training and experience in the areas in which they are assigned as measured by the following:
 - A. 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; and
 - B. for all professional staff, relevant experience and/or training in other programs which may or may not be directly related to teaching or the administrative duties to which they are assigned.
2. The school must have an adequate program of continuing professional staff development, including needs-based professional learning. The school shall keep a general description of its staff meetings, develop and maintain expectations for professional growth of staff, and maintain information describing the school's in-service training, financial, and any other support provided to staff for professional development.
3. The school shall maintain job descriptions for every position that describe training, experience, and degrees required for the position. The school shall also maintain records that include a resume, vita, or description of appropriate qualification for each current staff member,

along with their current assignment, length of service, and a description of any duties not related to teaching or administration.

(b) **Instructional Strategies.** Practices employed by educators shall include examining and teaching a subject from multiple academic perspectives and encouraging students to engage with and synthesize diverse perspectives and narratives, including those from the students' lived experiences, into a coherent understanding or analysis. Educators shall be supported in:

1. examining their own identities and biases;
2. fostering a learning environment that recognizes multiple ethnic, cultural, and racial perspectives; presents and critiques historical counter-narratives; and encourages students to examine issues and expressions of social equity within and beyond the classroom or school;
3. modeling and setting high expectations for all students - regardless of a student's prior academic experience, family background, socio-economic status or (dis)abilities - and promoting respect for student differences;
4. recognizing the essential role that language acquisition and literacy play in the lives of students, especially culturally and linguistically diverse students, not only in respect to listening, speaking, reading, and/or writing, but as home and community practices that shape a culturally responsive understanding of students' social, racial, linguistic, and ethnic identities, of their communities, and of their world;
5. communicating in culturally and linguistically responsive ways;
6. providing learning experiences that are designed for neurodiversity with multiple ways for students to access learning;
7. using educational and assistive technology to reduce barriers to learning and heighten student engagement;
8. cultivating student agency by providing multiple ways for students to engage with and demonstrate their new learning;
9. emphasizing an inquiry-driven approach to all units of study and bringing real-world issues into the classroom;
10. heightening the relevance and importance of learning objectives and providing mastery-oriented feedback;
11. employing the use of data to adapt pedagogy to unique student needs and incorporating student feedback into instructional design and curricula;
12. teaching students how to develop metacognitive and social emotional skills that improve their academic outcomes;

13. designing learning experiences that improve students' wellbeing, including opportunities for physical movement in the classroom; and
14. fostering a positive classroom culture using restorative practices where appropriate.

(c) Curriculum Content Areas.

1. All approved independent schools shall enable students to engage annually in rigorous, relevant, and comprehensive learning opportunities that are socially and culturally responsive and that allow them to demonstrate proficiency in the curriculum delivered. The course of study offered shall be age and ability appropriate and adequate to meet the educational purposes of the school.
2. Knowledge of diverse cultures, languages, and perspectives shall be incorporated into learning activities and curriculum design, including connecting students' life experiences and ways of learning, to help students access rigorous curriculum and develop higher order thinking skills. Curriculum shall be equitable, anti-racist, culturally responsive, anti-discriminatory, inclusive, and accessible to students and families and shall include ethnic and social equity studies, as described in Act 1 (2019), which promotes critical thinking regarding the history, contribution, and perspectives of ethnic groups and social groups.

(d) Special Services. Approved independent schools shall maintain special services necessary to meet the requirements of a minimum course of study and their educational purposes, including library services, administrative services, guidance and counseling services, and a system of records by which student progress may be assessed. All students shall have access to education materials, which may include digital, multi-media, alternate format and/or print materials sufficient and appropriate to support their learning needs.

2223.3.4. Maintaining Safe and Equitable Access to Educational Opportunities

Approved independent schools are expected to provide for the safety, protection, and equitable treatment of students and school personnel in accordance with state and federal laws. School governance boards and leadership teams shall make every effort to remain current in their understanding and implementation of recognized best practices and procedures in this regard and shall also take care to remain compliant with laws adopted after the promulgation of these rules. At a minimum, each approved independent school shall develop and maintain the following:

- (a) a comprehensive plan for responding to student discipline and misbehavior, as required by 16 V.S.A. §1161a, that is clear and consistently enforced and includes consequences for violations of policy;
- (b) harassment, hazing, and bullying prevention policies pursuant to 16 V.S.A. §166(e) and procedures for dealing with harassment, hazing, and bullying of students pursuant to Chapter 9, Subchapter 5 of Title 16 of the Vermont Statutes Annotated;
- (c) practices that comply with the requirements of 16 V.S.A. §§253 - 255 relating to confidentiality and maintenance of records, criminal record checks, and checks of the Child Protection Registry and the Vulnerable Adult Abuse, Neglect, and Exploitation Registry;

- (d) procedures that do not permit any person listed on the State of Vermont, Department of Public Safety, Vermont Crime Information Center Sex Offender Registry to work at the school as an employee, volunteer, or work study student pursuant to 16 V.S.A §260;
- (e) practices that ensure that adults employed in the school receive orientation, information, and instruction on the prevention, identification, and reporting of child sexual abuse (as defined in 33 V.S.A. §4912(8)) and sexual violence, and that also offer opportunities for parents, guardians, and other interested persons to receive the same information as required by 16 V.S.A. §563(a);
- (f) opportunities that provide access for eligible students to participate in dual enrollment pursuant to 16 V.S.A. § 944, including accepting credit duly awarded, collecting enrollment data, and providing support to participating students during the program and as they transition to postsecondary enrollment;
- (g) a procedure for providing the names and addresses of publicly funded students enrolled at the approved school to the school's regional career technical education (CTE) center and complying with any other requirement in Title 16 or Rule 2370, et. seq. related to career technical education;
- (h) an enrollment policy designed to serve children with disabilities;
- (i) a concussion management action plan and information that is developed, distributed, and acknowledged by required personnel and includes appropriate training for athletic coaches in recognizing and managing the risks of concussions and other head injuries in accordance with 16 V.S.A. §1431;
- (j) practices that ensure compliance with requirements of 18 V.S.A. §1120, et seq. regarding the immunization of students against disease;
- (k) a policy pursuant to 16 V.S.A. §912 regarding a student's right to be excused any lesson, exercise, or assessment requiring the student to participate in or observe the dissection or harm of an animal;
- (l) procedures to ensure that students have access to menstrual products at no cost pursuant to 16 V.S.A. §1432;
- (m) practices that ensure compliance with supporting and protecting the rights of married, pregnant, or parenting students pursuant to 16 V.S.A. §1073;
- (n) practices that permit students with life-threatening allergies or with asthma to possess and self-administer emergency medication in accordance with 16 V.S.A. §1387;
- (o) an all-hazards emergency operations plan consistent with 16 V.S.A. §1480;
- (p) fire and emergency preparedness drills pursuant to 16 V.S.A. §1481;
- (q) a written building access control and visitor management policy consistent with 16 V.S.A. §1484;
- (r) practices that promote an equitable, just, and inclusive community of adults and students, foster a culture of learning, and inspire students to respect and value diversity in its many forms;

(s) after July 1, 2025, behavioral threat assessment policies, procedures, and reporting mechanisms consistent with 16 V.S.A. §1485; and

(t) practices to remain aware of and compliant with any rule or regulation related to the safety, protection, and equitable treatment of students and school personnel.

2223.3.5 Other Required Activities

In addition to activities outlined in Subsection 2223.3.4 (Maintaining Safe and Equitable Access to Educational Opportunities), each approved independent school shall perform the duties listed in (a) – (k) below.

For the purposes of subdivision (j) of this Subsection 2223.3.5 (Other Required Activities), a transcript is a formal record certifying and documenting a student's or former student's academic achievement and shall include, at a minimum, the student's name, date of birth, last known address, dates of attendance, courses taken, grades or proficiencies achieved, credits or credentials awarded, and standardized test scores, if applicable. An academic record includes a student's transcript and may also include alternate graduation plans, an Individualized Education Program, a 504 Plan, personalized learning plan, rank in class, awards, activities, clubs, and other information not included in a student's transcript. The academic record shall not include documents, notes, records, or descriptions of a student's disciplinary history. Academic records are not the same as education records, as referenced in FERPA.

(a) provide to the parent or guardian responsible for each of its students, prior to accepting any money for a student, an accurate statement in writing of its status under 16 V.S.A. §166(b). Failure to comply with this provision may create a permissible inference of false advertising in violation of 13 V.S.A. §2005;

(b) maintain a register of the daily attendance of each of its enrolled students;

(c) provide to the Secretary on October 1 of each year the names, genders, dates of birth, and addresses of its enrolled students. Within seven days of the termination of a student's enrollment, the approved school shall notify the Secretary of the name and address of the student. The Secretary shall notify the appropriate school officials as provided in 16 V.S.A. §1126;

(d) maintain an operating schedule that includes a total number of instructional hours each year that is not less than that required of a public school serving the same grades;

(e) comply with legal requirements of 16 V.S.A. §568 concerning nondiscriminatory school branding;

(f) measure attainment of standards for student performance for publicly funded students, as required by 16 V.S.A. §164(9), and provide data related to the assessments to the Secretary as required by 16 V.S.A. §166(g); schools are encouraged to also provide the data to local education agencies;

(g) provide information to sending school districts related to reporting on weighting categories, as requested, pursuant to 16 V.S.A. §4010(c);

(h) comply with 16 V.S.A. §12 requiring select school officials to subscribe to an oath or affirmation to support the U.S. Constitution, Vermont Constitution, and all state and federal laws;

(i) conduct exercises commemorating the birth, life, and services of Abraham Lincoln, pursuant to 16 V.S.A. §907;

(j) adopt policies related to record maintenance and retention that, at minimum,

1. provide for the secure collection, maintenance, disclosure, transfer, and destruction of academic records;
2. ensure that records are kept physically and electronically secure and enable accurate and timely reporting in connection with data collection requirements in alignment with the Agency's data collection efforts;
3. ensure the accuracy, relevancy and confidentiality of such records, and accessibility thereto, in compliance with the federal Family Educational Rights and Privacy Act (FERPA), if applicable;
4. permanently maintain transcripts of students who have graduated or withdrawn if the school operates grades nine through twelve;
5. provide a method by which the academic record of any former student is promptly and securely transferred to a subsequent school in which the student enrolls, upon request of the student or their legal guardian and without placing any condition on the release of such record; and
6. provide for the timely and confidential disposition of student records in the event of the school's closure; and

(k) comply with other applicable state and federal requirements pertaining to approved schools.

2223.3.6. Independent Schools Operating a Boarding Program

To be approved under these rules, an independent school that operates a boarding program, enrolls students as boarding students, or operates a residential treatment program shall be accredited by an agency recognized by the Board pursuant to Section 2227 (Recognized Accrediting Agencies) or shall be licensed as a residential childcare facility by the Department for Children and Families. This requirement does not apply to an independent school that enrolls only day students.

2223.4. Annual Compliance Assurance

(a) On or before February 15th of each year, each approved independent school shall assure that it continues to comply with applicable requirements of these rules and state and federal law.

(b) In consultation with the Board, the Agency shall prepare and make available a simplified electronic form to be used to meet the requirement of this section that shall be made available to all approved independent schools by direct email and posting on the Agency's website by no later than January 15th of each year and at least thirty days before the date it is due. The Agency shall confirm with each approved independent school that they have received notice of the annual compliance assurance requirement and the submission deadlines within thirty days of the due date.

(c) The form shall include the school's specific assurance that, to the full extent consistent with the school's statutory and constitutional rights, it meets the requirements of Subsection 2223.2

(Nondiscrimination Requirements for Approved Schools) and, for schools approved to receive public tuition, complies with Sections 2229 (Approval to Receive Public Tuition; Special Education Approval) and 2231 (Written Agreements Required).

(d) The form shall also require disclosure of any complaint alleging a violation of a nondiscrimination provision of law or these rules and the status of each complaint. The Agency, upon review, shall certify to the Board that either there were no complaints or that any pending complaint is under review by an appropriate authority. The Agency shall refer any outstanding complaints to the appropriate authority pursuant to Subsection 2226.2.1 (Complaints; Reports), below.

(e) In the event that there are circumstances that are unforeseen or beyond a school's control that prevent submission of the form by the announced due date, a school may request, and the Secretary may grant, approval to submit the form on an alternate date. The request must be submitted prior to the announced due date unless the Secretary finds that delivery of the form, pursuant to (b) above, was ineffective.

(f) If an approved independent school fails to submit its form by the date set by the Agency, the Secretary shall promptly contact the school by phone or first-class mail regarding its deficiency and notify the Board that the school is out of compliance with subsection (a) above. After providing an opportunity for a hearing, the Board may revoke, suspend, or impose conditions on the school's approval status, including its eligibility to receive public tuition, if it determines that the school has failed to comply with the requirements of this Subsection without a showing of good cause.

(g) By January 15, 2025, the Agency shall develop and publish the electronic forms required to comply with this Section. The Agency shall also deliver at least one online training and written guidance that shall be made available to approved independent schools to assist schools in complying with this requirement.

2223.5. Confidential Information

Information provided by a school under these rules that is not already in the public domain is exempt from public inspection and copying under the Public Records Act and shall be kept confidential according to 16 V.S.A. §166(b)(8).

Section 2224. Application and Reapplication for Approval; Approval Process

Approval shall be recommended for an independent school offering elementary or secondary education if it provides a minimum course of study pursuant to 16 V.S.A. §906, substantially complies with all statutory requirements for approved independent schools and the Board's rules for approved independent schools, and fully complies with the nondiscrimination provisions of Section 2223.2 (Nondiscrimination Requirement for Approved Schools), Sections 2223.1 (General Requirements for Approved Schools), 2223.2.1 (Nondiscrimination Statement and Policy), and 2223.4 (Annual Compliance Assurance). A school meeting the requirements of Section 2223 (Requirements to Operate as an Approved Independent School) and this Section, but not Sections 2229 (Approval to Receive Public Tuition; Special Education Approval) and 2231 (Written Agreements Required), may be recommended for approval but may not receive public tuition.

2224.1. Standard Application Process

All independent schools that are not accredited by a recognized accrediting agency pursuant to Section 2227 (Recognized Accrediting Agencies) shall follow the standard application process set forth below.

2224.1.1. Standard Application

An independent school seeking approval under these rules shall apply to the Secretary using a form prepared by the Secretary to meet the requirements of this section. At a minimum, the application shall solicit the information containing or describing the school's basic information, mission statement, enrollment policy, curriculum, methods of instruction, evaluation procedures, special services provided, governance information, evidence of compliance with local, state, and federal laws and regulations, staffing and instructional strategies, fiscal practices and evidence of financial capacity, operational information, assurances and disclosures required under these rules, a request to receive public tuition, if applicable, and other information required under these rules that the Secretary, Board, or review committee may need to determine whether the school meets the requirements for approval. The school shall also submit a compliance assurance form described in Subsection 2223.4 (Annual Compliance Assurance).

2224.1.2. Standard Application Review, Visit, Report, and Recommendation

Upon receipt of a complete application, the Secretary shall appoint a review committee of at least two persons. The committee shall review the application materials and visit the school. To the extent possible, the visit shall be coordinated with other agencies of state government that inspect such facilities. The review committee shall examine the application materials and consider findings from its site visit and submit a report, including a written initial recommendation regarding approval, to the Secretary, and send a copy to the applicant school. The applicant shall be given thirty days to respond before the Secretary makes a final recommendation regarding approval to the Board. The Secretary's final recommendation shall contain the findings of other agencies of state government that inspect such facilities.

2224.2. Accredited Independent School Application Process

In the case of an independent school seeking approval that has been accredited within the last five years by a recognized accrediting agency pursuant to Section 2227 (Recognized Accrediting Agency), an abbreviated application and review process described in this subsection may be used.

2224.2.1. Accredited Independent School Application

An independent school seeking approval under this subsection shall apply to the Secretary using a form prepared by the Secretary. The application shall require the school to provide evidence of accreditation from the recognized accrediting agency, basic information about the school, assurances of compliance with state specific requirements set forth in Subsections 2223.3.4 (Maintaining Safe and Equitable Access to Educational Opportunities) and 2223.3.5 (Other Required Activities) and state law, and a request to receive public tuition pursuant to Section 2229 (Approval to receive Public Tuition; Special Education Approval), if applicable. The school shall also submit a compliance assurance form described in Subsection 2223.4 (Annual Compliance Assurance).

2224.2.2. Accredited Independent School Application Review, Report, and Recommendation

Upon receipt of a complete application, the Agency shall review the application materials and submit a report, including a written initial recommendation regarding approval, to the applicant school. The applicant shall be given thirty days to respond before the Secretary makes a final recommendation regarding approval to the Board. A comprehensive review of programs and operations by a review committee, including a site visit, will not be required.

2224.3. Review

The Secretary shall confer with the Chair of the Board on a regular basis to ensure effective coordination and timely review of applications and reapplications for school approval to promote efficiency in scheduling and expediency in decision-making.

2224.4. Board Approval

The Board shall review each application for approval and consider the report and recommendation of the Secretary. The Board shall make findings listed in (a), (b), and (c) below, as applicable, prior to approval and may set additional conditions for approval in the exercise of its judgment.

(a) The Board shall make the following findings prior to approving any school that submitted a standard application:

1. the description of the school in the approval application is accurate;
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;
3. the school has available support services necessary to meet the requirements of a minimum course of study and its educational purposes, including library services, administrative services, guidance and counseling services, accessible digital, multi-media, and alternate format resources, and a system of records by which student progress may be assessed;
4. the school has classroom, laboratory, library, and other facilities necessary to operate its program;
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:
 - A. 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; and
 - B. for all professional staff, relevant experience and/or training which may or may not be directly related to teaching or the administrative duties to which they are assigned;
6. the school has an adequate program of continuing professional staff development as demonstrated in the application;
7. the school employs a sufficient number of professional staff for the population served;
8. the school substantially complies with all statutory requirements and the Board's rules for approved independent schools and fully complies with Sections 2223.1 (General Requirements for Approved Schools), 2223.2.1 (Nondiscrimination Statement and Policy), and 2223.4 (Annual Compliance Assurance), as well as all operations and requirements related to student safety, including those related to its facilities, fire drills, and the immunization of students against disease;
9. the school maintains a register of the daily attendance of each of its enrolled students;
10. the school maintains an operating schedule that includes a total number of instructional hours each year that is not less than that required of a public school serving the same grades;

11. the school has the financial capacity to carry out its stated objectives for the period of approval as evidenced by one of the following:

(A) an audit letter by a certified accounting firm from the present or prior fiscal year describing the school's financial capacity;

(B) a notarized letter summarizing the financial status of the present or prior fiscal year signed by the board of directors or governing body of the school;

(C) an audit from the present or prior fiscal year performed by a certified accounting firm; or

(D) a statement of the school's financial capacity submitted by a private, state, or regional agency recognized by the Board for accrediting purposes concerning the school's financial capacity;

12. the school complies with the requirements of 16 V.S.A. §255, et seq. relating to criminal record checks and checks of the Child Protection Registry and the Vulnerable Adult Abuse, Neglect, and Exploitation Registry;

13. the school complies with legal requirements concerning nondiscriminatory school branding;

14. the school has adopted a policy on record maintenance and retention that meets the requirements of these rules;

15. the school promotes an equitable, just, and inclusive community of adults and students, fosters a culture of learning, and inspires students to respect and value diversity in its many forms;

16. the school, with its application, has assured its compliance with Vermont-specific laws and regulations by submitting a compliance assurance form pursuant to Subsection 2223.4. (Annual Compliance Assurance); and

17. if the school seeks approval to receive public tuition and provide special education pursuant to Section 2229 (Approval to Receive Public Tuition; Special Education Approval), the school complies fully with the requirements of Sections 2229 and 2231 (Written Agreements Required), including a specific finding that the school's description of its enrollment policy sufficiently states and describes how it is designed to serve children with disabilities.

(b) The Board shall make the following findings prior to approving any school that submitted an accredited independent school application:

1. the school is accredited and deemed in good standing by a recognized accrediting agency under Section 2227 (Recognized Accrediting Agencies) within the last five years;

2. the application and materials submitted sufficiently demonstrate that the school provides a minimum course of study pursuant to 16 V.S.A. §906;

3. the school, with its application, has assured its compliance with Vermont-specific laws and regulations, including nondiscrimination provisions of these rules, by submitting a compliance assurance form pursuant to Subsection 2223.4 (Annual Compliance Assurance); and

4. if the school seeks approval to receive public tuition and provide special education pursuant to Subsection 2229.6 (Approval to Receive Public Tuition; Special Education Approval), the school complies fully with the requirements of Sections 2229 and 2231 (Written Agreements Required), including a specific finding that the school's description of its enrollment policy sufficiently states and describes how it is designed to serve children with disabilities.

(c) Prior to approving a school's application to receive public tuition pursuant to Subsection 2229.6 (Approval to Receive Public Tuition; Special Education Approval), the Board shall consider the recommendation of the Secretary and find that the school meets all requirements necessary for approval under these rules and applicable sections of Title 16.

(d) The Agency shall maintain a public register of all recognized and approved independent schools and distinguish whether an approved independent school is currently eligible or ineligible to receive public tuition.

2224.5. Continued Approval

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

2224.6. Continued Accreditation

A school accredited by a recognized accrediting agency pursuant to Section 2227 (Recognized Accrediting Agencies) shall notify the Agency within five days of any change to its accreditation status.

2224.7. Reapplication

The Secretary shall notify each school of the date that its approval status will expire not less than six months prior to its expiration and shall provide the date by which its application for reapproval is due to the Secretary. Schools that wish to remain approved without interruption shall follow the Standard Application Process or Accredited School Application Process as it applies to them. The Secretary may extend the reapplication period for good cause. Upon receipt of a complete application for reapproval, the Agency shall conduct its review and issue its report, and the Secretary shall make their recommendation to the Board in a timely manner.

2224.8. Interim Compliance Report from Accrediting Agency

For any school accredited by a recognized accrediting agency under Section 2227 (Recognized Accrediting Agencies) seeking reapplication under Subsection 2224.7 (Reapplication) whose accreditation period exceeds the school's approval period, a supplemental interim report from the accrediting agency must be submitted during the last year of the school's approval by the Board and must provide information necessary to assure the Board that the school meets the approval standards. If such proof of compliance with approval standards cannot be shown, then the school must undergo the application process described in Subsection 2224.1.1 (Standard Application) in seeking continued approval.

Section 2225. 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.

Section 2226. Termination; Procedures for Revoking or Suspending Approval

2226.1. Termination

Approval of an independent school that fails to complete a timely application for reapproval shall terminate on the date specified in the most recent approval action, provided that the school received notification of the expiration of the approval period required in Subsection 2224.7 (Reapplication).

2226.2. Complaints; Investigations; Due Process Hearings

2226.2.1. Complaints; Reports

(a) Complaints against an approved independent school must be made in writing to the Secretary. The complaint must contain enough detail to show that the school substantially failed to comply with the minimum course of study required, failed to maintain resources required to meet its stated objectives, or failed to comply with statutory requirements or the Board's rules for approved schools.

(b) 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 for Children and Families. Reports concerning the safety of facilities, water supply, electricity, plumbing, or waste disposal systems shall be referred to the appropriate agency. Complaints or reports alleging a violation of nondiscrimination laws shall be referred to the appropriate state or federal agency.

(c) For any complaint or report referred under this subsection, the Secretary shall request that the relevant agency submit a report of its findings and any actions resulting from the referral at the conclusion of the agency's investigation.

2226.2.2. Investigations; Due Process Hearing

(a) The Secretary shall conduct a prompt initial investigation of reports or complaints related to the requirements of this rule and laws that apply to approved independent schools, except for those first referred to other state agencies pursuant to Subsection 2226.2.1(b) (Complaints; Reports). Such investigations shall proceed as follows:

1. The school shall receive notification of the complaint and investigation unless contraindicated by the particular facts. If, following an initial investigation, the Secretary finds a violation of rules or laws that apply to approved schools, the Secretary should first determine whether the matter can be resolved through informal means, such as by provision of regulatory guidance, and confirm that corrective action is taken by the school.
2. If the Secretary determines that informal means are not appropriate to the violation or if the matter has not been resolved informally, the Secretary may place the approved school on probation and notify the Board of this action. An approved school may appeal the imposition of probation to the Board by requesting a hearing as provided in Subsection 2226.3 (Revocation or Suspension of Approval).
3. At any time, the Secretary may conduct a formal investigation without first attempting an informal resolution or imposing probation.
4. If the Secretary determines that a formal investigation is warranted, the Secretary shall appoint a review team of at least two persons that, with the consent of the school, shall include

a member of the Council of Independent Schools. The team shall conduct a school visit and shall obtain from the school such information or documentation necessary to perform its assessment. The review team will inform the Secretary and the school of the results of its visit and assessment. The Secretary shall share the findings with the Council of Independent Schools. The Council shall consider the findings from the investigation and the Secretary's proposed resolution and issue a written opinion that shall include minority opinions, if applicable, on the same.

(b) If, after receiving the Council's opinion or a state or federal agency's report pursuant to Subsection 2226.2.1(b) (Complaints; Reports) above, the Secretary determines that revocation or suspension of approval is warranted pursuant to Subsection 2226.3 (Revocation or Suspension of Approval), the Secretary shall notify the Board of the recommendation and provide notice to the school. The Board shall hold a hearing pursuant to 3 V.S.A. Chapter 25 to consider the Secretary's recommendation.

(c) If the Secretary reasonably believes that an approved school lacks the financial capacity to meet its stated objectives during the period of its approved status, including by means of self-report of any of the financial events listed in Subsection 2223.3.2(b) (Financial Capacity, Solvency, and Stability), the Secretary shall so notify the school in writing and shall provide the school a reasonable opportunity to respond. If the Secretary does not find that the school has satisfactorily responded or demonstrated its financial capacity, a formal investigation may be initiated in accordance with (a) above, pursuant to 16 V.S.A. §166(b)(8).

(d) The Secretary shall maintain a register of all complaints that result in imposition of probation or a formal investigation, which are or shall be made a public record consistent with the provisions of 1 VSA §317, and which shall include the general nature of the complaint and action taken by the Secretary or Board.

2226.3. Revocation or Suspension of Approval

(a) After investigation and providing an opportunity for hearing pursuant to Subsection 2226.2.2 (Investigations; Due Process Hearing) the Board may revoke, suspend, or impose conditions on the status of an approved school, including its eligibility to receive public tuition, if it determines that the school has:

1. failed to demonstrate that it has the resources required to meet its stated objectives;
2. failed to comply with a statutory requirement or the Board's rules for approved schools, including failure to submit an annual compliance assurance;
3. failed to report any of the financial events listed in Subsection 2223.3.2(b) (Financial Capacity, Solvency, and Stability); or
4. failed to make an annual enrollment report to the Secretary as required by 16 V.S.A. §166(b)(4).

In considering whether an independent school lacks financial capacity to meet its stated objectives during the period of its approved status and what actions to take, the Board may consult with, and draw on the analytical resources of, the Vermont Department of Financial Regulation.

(b) If a court of competent jurisdiction or a state or federal agency determines after investigation that there are reasonable grounds to believe a school has discriminated against a student or employee in violation of federal or state law, the Board may hold a due process hearing to determine if the school's conduct objectively and substantially undermined or detracted from or interfered with a student's educational performance or access to school resources. If the Board makes such a finding, it may revoke, suspend, or impose conditions on the status of the school, including its ability to receive public tuition. The Board shall consider the status of the underling case with the court or state or federal agency when deciding whether it would be appropriate to conduct a hearing or to act upon its findings.

Section 2227. Recognized Accrediting Agencies

(a) The Board shall recognize accrediting agencies that meet the following requirements:

1. operate continuously for at least five years prior to applying for recognition under this section;
2. maintain membership in a peer organization that supports accrediting agencies in continuous improvement and alignment with best practices in school accreditation;
3. use a peer review process that includes evaluation by leaders of similar school types;
4. appropriately train all staff and peer reviewers who are involved in the accreditation process;
5. accredit schools based on publicly accessible documented standards, including mission, governance, finance, program, community of the school, administration, development, admissions, personnel, general health and safety, child and student protection and well-being, facilities, student services, school culture, and residential life (as applicable);
6. perform a comprehensive onsite visit of any school seeking accreditation while such school is in session;
7. require that schools seeking accreditation maintain a curriculum that is informed by research, document individual student progress, and have mechanisms for monitoring, assessing, and providing feedback on student progress;
8. require that schools seeking accreditation promote an equitable, just, and inclusive community of adults and students, foster a culture of learning, and inspire students to respect and value diversity in its many forms;
9. conduct ongoing and periodic reviews as necessary throughout the accreditation cycle of the schools that it accredits and provide interim reports during the accredited school's approval period that are sufficient to meet the informational needs of the Board;
10. demonstrate substantial understanding and familiarity with state laws, policies, and regulations that apply to approved independent schools in Vermont; and
11. agree to review and share with the Agency of Education evidence of practices and compliance with state-specific requirements during the initial or interim stages of an approved independent school's accreditation period.

(b) Any accrediting agency seeking to be recognized by the Board under this section shall submit a letter and supporting evidence to the Board detailing the ways in which it meets each criterion. Each applicant shall also provide its methodology for assessing and supporting schools in meeting and advancing diversity, equity, inclusion, and other nondiscriminatory practices. Upon review of each submission, the Board shall determine whether it will recognize the accrediting agency and set the length of time that such recognition will be in effect. The Board may impose additional conditions upon a recognized accrediting agency as it deems appropriate. Applicants shall be notified of a decision and any conditions of continued recognition in writing.

(c) The Board shall create, and the Agency of Education shall maintain, a publicly available list of currently recognized accrediting agencies that meet the criteria described in subsection (a) above. The Board may remove any agency from the list of recognized accrediting agencies at any time, after finding that it no longer meets one or more of the criteria listed above.

(d) The Board shall continue to recognize any accrediting agency that accredits an approved independent school in Vermont as of April 1, 2024 until December 1, 2024.

Section 2228. Tuition from Public Funds

2228.1. Tuition for Approved Schools in Vermont

Tuition shall not be paid from public funds to any approved independent elementary or secondary school in Vermont unless the school satisfies the requirements in Section 2223 (Requirements to Operate an Approved School) and Section 2224 (Application and Reapplication for Approval; Approval Process), as well as Sections 2229 (Approval to Receive Public Tuition, Special Education Tuition) and 2231 (Written Agreements Required). Tuition shall not be paid if a school's approval status has been suspended unless and until its approval status has been restored. Notwithstanding this prohibition, public tuition may be paid in cases where:

(a) there is an order from a court or from a due process hearing pursuant to Subsection 2365.1.6 (Due Process Complaint Procedures) requiring such payment; or

(b) the Secretary has approved an exception for a placement in an independent school pursuant to Subsection 2230.1 (Exceptional Circumstances – Approval Process).

2228.2. Tuition for Out-of-State Schools

Public tuition to be paid to an independent school located out of state shall be made in accordance with 16 V.S.A. §828.

Section 2229. Approval to Receive Public Tuition; Special Education Approval

For the purposes of this Section 2229 and Section 2231 (Written Agreements Required), the term “independent school approved for public tuition” shall mean an approved independent school that has been determined by the Board to be eligible to receive public tuition because it meets the requirements of both sections. Any reference to “school” in these sections shall also mean “independent school approved for public tuition,” unless the context indicates otherwise.

2229.1. Enrollment: Requirements for Independent Schools Approved for Public Tuition, Students, and LEAs

(a) Each independent school approved for public tuition shall maintain, follow, and distribute to prospective students, their families, or members of the student's educational support team, a written enrollment policy, which shall, at minimum, provide the following:

1. that the student or the parent of a student seeking to attend the school shall voluntarily submit an application;
2. any special considerations or requirements for a student's acceptance for enrollment, none of which shall disadvantage a student based on the student's membership in a protected class, the student's actual or suspected disability, or the student's socioeconomic status;
3. the school's process for making enrollment decisions when the number of applicants exceeds capacity; and
4. that a student shall be accepted for enrollment in a nondiscriminatory manner and consistent with the school's written enrollment policy. No student shall be denied acceptance for enrollment if the reason for denial is that the student is disabled as defined in section 504 of the Rehabilitation Act of 1973, as amended, or that the student is eligible for special education or undergoing the comprehensive evaluation process for special education. No student shall be denied acceptance for enrollment on the basis of the student's race, gender, color, creed, religion, national origin, marital status, sexual orientation, gender identity, disability, or any other characteristic protected by state or federal law.

(b) Upon a student's acceptance for enrollment, the student's individualized education program team shall meet to determine how the student's services shall be provided. The independent school approved for public tuition and the LEA shall follow the procedures in Subsection 2229.4 (Procedures for Ensuring the Provision of Special Education Services to Publicly Funded Students in Approved Independent Schools), after which the student shall be enrolled in the approved school or, upon the decision of the hearing officer in Section 2229.4 below, the individualized education program team shall consider an alternative enrollment for the student.

(c) When a publicly funded student seeks to attend an independent school approved for public tuition after the start of the school year, upon the student's acceptance for enrollment, the student shall be provisionally enrolled consistent with the procedures in Subsection 2229.4 (Procedure for Ensuring the Provision of Special Education Services to Publicly Funded Students in Approved Independent Schools), during which time the LEA of residence shall agree to pay tuition on the student's behalf until the procedures in 2229.4 have been completed and the student is enrolled, or until the hearing officer issues a decision pursuant to Section 2229.4, below.

(d) This Subsection 2229.1 shall not apply to a therapeutic independent school.

2229.2. Staffing

An independent school approved for public tuition shall demonstrate the ability to serve students with disabilities by employing or contracting with staff who have the required licensure to provide special education services. The school is not required to demonstrate that it has the resources to provide every type of special education service in order to be approved or retain its approval to receive public tuition. Therapeutic independent schools shall have the capacity to serve the needs of students they are designed to serve. The

Secretary shall establish minimum standards of services for students receiving special education services in independent schools approved for public tuition in Vermont.

2229.3. Assurances

An independent school approved for public tuition shall demonstrate that it has the ability to serve all students with disabilities by:

(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, and
4. procedural safeguards and parental rights, including discipline procedures, specified in federal and state law;

(b) committing to implementing the individualized education program 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 participate meaningfully in a student's individualized education program meetings, to include making every effort to attend scheduled meetings;

(e) agreeing to communicate with the responsible LEA concerning:

1. development of, and any changes to, the individualized education program,
2. services provided under the individualized education program and recommendations for a change in the services provided,
3. the student's progress,
4. maintenance of the student's enrollment in the school, and
5. identification of students with suspected disabilities; and

(f) committing to participate in dispute resolution as provided under federal and state law and the Board's rules relating to special education dispute resolution.

2229.4. Procedure for Ensuring the Provision of Special Education Services to Publicly Funded Students in Approved Independent Schools

(a) The LEA shall be responsible for the administration of the individualized education program of a publicly funded student enrolled in an independent school approved for public tuition.

(b) Upon the acceptance for enrollment of a student with an individualized education program in an independent school approved for public tuition, the LEA of the student's residence shall convene an individualized education program or 504 team meeting within thirty days. When practical, the meeting shall be held prior to the start of the academic year in which the student is enrolled. The school shall designate personnel to participate in the individualized education program or 504 meeting. At the meeting, the team, which includes the parent, and the student where appropriate, shall determine how to ensure the provision of a free and appropriate public education in accordance with the student's individualized education program.

(c) The LEA and the independent school approved for public tuition, together with the student's individualized education program team, shall work collaboratively to ensure the student's services are provided in accordance with state and federal law. Services shall be provided in a timely manner, beginning with the first day of the school year when possible. It is the intent of the Board that the LEA and the school will identify solutions that minimize the loss of instructional hours to the student. The Agency shall provide technical assistance to the LEA and the school upon request.

(d) For placement purposes under the IDEA, the individualized education program team shall ensure the individualized education program process reflects the student's choice of enrollment in the independent school approved for public tuition, notwithstanding Subsection 2364.3(a)(2) (Placements). In this context, "placement" refers not to the specific site of the educational placement, but to the provision of special education and related services. Independent schools approved for public tuition shall follow all applicable federal and state laws regarding the change in placement of a student receiving special education services.

(e) The student's special education and related services shall be provided in accordance with the student's individualized education program and in the least restrictive environment.

(f) To ensure the provision of services in the student's individualized education program, the independent school approved for public tuition and the LEA may use any or all of the methods listed below to ensure the provision of those services, including:

1. the school recruiting and hiring special education or other professional or paraprofessional staff;
2. the school contracting directly with service providers to provide the services at the school if the services are not otherwise available at the school;
3. the school contracting with the LEA to provide the services; and
4. the LEA providing the services at a public school operated by the LEA or another public school.

(g) If there is a dispute between the LEA and the independent school approved for public tuition over whether the student's special education services can be provided in accordance with the student's

individualized education program at the independent school or otherwise, the LEA shall initiate a hearing before an independent hearing officer, the costs of which shall be borne equally between the LEA and the school, within thirty days of the impasse.

(h) If the hearing officer determines the independent school approved for public tuition is unable to provide the required individualized education program services due to an inability to retain qualified staff, the LEA shall immediately convene an individualized education program meeting to consider alternatives.

1. The independent school approved for public tuition shall not be subject to any disciplinary action or revocation of its approval by the Board under Subsection 2226.2 (Revocation or Suspension of Approval) due to its failure to enroll or continue to enroll the student.

(i) This Subsection 2229.4 shall not apply to a therapeutic independent school.

2229.5. Payments for Special Education Service Costs Delivered by Out-of-State Programs

(a) Subject to the provisions of 16 V.S.A §828, for an out-of-state independent school to be approved to receive public funds for special education purposes by the Board, the school shall be approved under the rules of its jurisdiction for the purpose of providing special education and related services to children with disabilities within its jurisdiction. Any limitation by the jurisdiction on an out-of-state 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.

(b) Rates paid for tuition, room, and board for students receiving special education in out-of-state schools shall not exceed the allowable costs approved by the authorized body in the jurisdiction where the school is located, except in exceptional circumstances approved by the Secretary.

2229.6. Approval Procedures to Receive Public Tuition

(a) Application for public tuition approval shall be made at the time of application under Sections 2224 (Application and Reapplication for Approval; Approval Process). A school that has already obtained approval from the Board may at any time submit an application for public tuition approval to the Secretary.

(b) The procedures for public tuition approval shall be the same as those for approval in accordance with Section 2224 (Application and Reapplication for Approval; Approval Process). To the extent possible, these procedures shall occur simultaneously.

2229.7. Duty to Notify

After receiving approval for public tuition, the school shall notify the Secretary within a reasonable time of any significant changes to its special education program, professional staff, governance, financial capacity, or facilities. The Secretary may, upon such notification, gather additional information from the school, including by means of a site visit. As a result, the Secretary may recommend that the Board change the school's approval for public tuition purposes. The Secretary shall employ the same procedures described in Subsection 2226.2.2 (Investigation; Due Process Hearing) to recommend a change to a school's approval status. The Board shall provide a hearing on the matter in accordance with Subsection 2226.2.2 and the requirements of Sections 1230, et seq.

2229.8. Minimum Level of Service

An independent school approved for public tuition 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 Section 2231 (Written Agreements Required).

Section 2230. Placement Prohibition

No responsible agency, as defined by Subsections 2360.3 (Child Find), or LEA shall make a special education placement in an approved independent school ineligible to receive public funds pursuant to the conditions in Section 2229 (Approval to Receive Public Tuition; Special Education Approval), unless the placement is pursuant to:

- (a) Subsection 2230.1 (Exceptional Circumstances – Approval Process);
- (b) a court order; or
- (c) a hearing officer's order.

2230.1. Exceptional Circumstances – Approval Process

Upon application by a responsible LEA, the Secretary may permit, in exceptional circumstances, a special education placement in an independent school that has been approved pursuant to Section 2223 (Requirements to Operate an Approved School) and Section 2224 (Application and Reapplication for Approval; Approval Process), but that has not been approved to receive public tuition under Section 2229 (Approval to Receive Public Tuition, Special Education Tuition). In instances in which the Secretary 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 Secretary's decision may file an appeal with the Board pursuant to 16 V.S.A. §828.

(a) Exceptional circumstances exist when:

1. after reasonable efforts, the LEA cannot locate an appropriate public or independent school approved for public tuition and special education purposes pursuant to Sections 2229 (Approval to Receive Public Tuition, Special Education Tuition) to serve children with the disability under which the child was determined to be eligible for special education; and
2. the proposed placement is deemed appropriate by the child's individualized education program team.

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

Section 2231. Written Agreements Required

2231.1 Agreement as to Costs

(a) In order to obtain approval to receive public tuition, an approved school shall assure the Board that, prior to enrolling a child pursuant to Subsection 2229.1 (Enrollment: Requirements for Independent Schools Approved for Public Tuition, Students, and LEAs), the school will enter into a written agreement with the LEA committing to the requirements set forth in Subsection 2229.3 (Assurances) and ensuring that qualified school personnel will attend planning and all individualized education program meetings for the student. The agreement shall outline tuition, room, board, and other costs associated with the child's attendance. For children on an individualized education program who are placed by a state

agency or a designated community mental health agency, or any other agency defined by the Secretary, in accordance with 16 V.S.A. §2948, the agreement shall be with the Secretary. In the instance of an emergency placement, such provisions shall be agreed upon within thirty days of the student's enrollment.

(b) The Secretary shall consult with independent schools in the state and determine maximum rates for tuition, room, and board for residential placements. These rates shall be published each year by November 30th. Any amount charged by an independent school approved for public tuition shall not exceed the school's actual or anticipated costs of providing special education services to the student and shall not exceed the maximum rates set by the Secretary, provided that the Secretary may permit charges in excess of the maximum rates if the Secretary deems it warranted.

(c) An independent school approved for public tuition that enrolls a student with an individualized education program pursuant to Subsection 2229.1 (Enrollment: Requirements for Independent Schools Approved for Public Tuition, Students, and LEAs) may bill the responsible LEA for the excess special education costs beyond those covered by general tuition. Reimbursement of the excess costs shall be based on the direct-cost rates approved by the Secretary for services actually provided to the student consistent with the Agency of Education's Technical Manual for special education cost accounting.

(d) An independent school approved for public tuition that enrolls a student under Subsection 2229.1 (Enrollment: Requirements for Independent Schools Approved for Public Tuition, Students, and LEAs) shall provide documentation to the Secretary in order to ensure that the amounts charged are reasonable in relation to special education services provided by the school.

(e) The Secretary may withhold, or direct an LEA to withhold, payment under this subdivision pending the Secretary's receipt of required documentation under this subdivision, or may withhold, or direct an LEA to withhold, an amount determined by the Secretary as not reasonable in relation to the special education services provided by the school.

2231.2. Agreement as to Non-Instructional Services.

In order to obtain approval to receive public tuition, an approved school shall assure the Board that, within thirty days of enrolling a child with an individualized education program, the school will enter into a written agreement with the sending LEA or other 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 Secretary, this agreement shall be with the LEA that has educational planning responsibility for the child.

Section 2232. Rate Approval for Therapeutic Approved Independent Schools.

(a) The Secretary shall set, after consultation with independent schools, the maximum tuition rate to be paid by the Agency and supervisory unions or school districts to therapeutic independent schools. The rate for each therapeutic independent school shall be no more than the costs that are reasonably related to the level of services provided by the school.

(b) If a therapeutic independent school does not submit an application for rate approval by November 15, the most recently approved rate will be in effect for the following school year. The Secretary may review an approved rate at any time; including on request of the school based on extraordinary circumstances. Therapeutic schools will supply information as requested by the Secretary.

(c) A therapeutic school's most recently approved rate shall be adjusted annually by the Secretary according to the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis. The Secretary shall announce the inflation rate to allow for sufficient time for submission of an application for approval of a new rate under subsection (d) in the event the therapeutic school determines such an application is needed. The annually-inflated rate shall become the most recently approved rate.

(d) A therapeutic school requesting a new rate shall submit an application for approval of a new rate to the Secretary by November 15 for tuition, related services, room, and board based upon the actual or anticipated costs that are reasonably related to providing educational services. Schools that also receive rates from the Agency of Human Services shall submit an application for approval of a new rate to the Secretary by May 1. Reported costs shall be only those that are net of other available restricted revenue sources. To demonstrate that the rate requested by the therapeutic school meets this standard, the therapeutic school shall submit to the Secretary the following:

1. Costs for each of the following categories, reported at the general ledger account description level, submitted in accordance with the Generally Accepted Accounting Principles published by the Financial Accounting Standards Board:

- (A) salaries for all employees and full-time equivalents, as applicable,
- (B) program-related contractual services,
- (C) operations-related contractual services,
- (D) general operating,
- (E) program,
- (F) travel/transportation,
- (G) building – direct,
- (H) building – allocated,
- (I) admin I – allocated,
- (J) admin II – allocated, and
- (K) fringe – allocated.

2. The school's proposed operational capacity, which shall be supported by a narrative that describes how the proposal reflects relevant circumstances including three-year historic enrollment, student acuity or changes in student acuity, availability of faculty and staff, physical space, anticipated demand for placements or change in anticipated demand for placements, and other considerations.

(e) A therapeutic school submitting an application for rate approval for the first time may submit the application at any time pursuant to this subsection.

(f) If the Secretary determines an application for new rate approval submitted under subsection (d) is incomplete, then the therapeutic school shall have 10 working days to complete the application following notice that its application is incomplete.

(g) The Secretary shall evaluate each element of the application for new rate approval submitted pursuant to subsection (d) and determine whether the school has demonstrated that the cost associated with each element is reasonably related to the level of services provided by the school. In determining whether a cost is reasonably related to the level of services, the Secretary will consider the following: direct-cost rates approved by the Secretary pursuant to 16 V.S.A. §2973(b), costs approved for other therapeutic schools, regional differences in costs, demonstrated difficulty filling certified or licensed positions, tenure of faculty and staff, student acuity, educational model, students' need for stability in educational placement, and other aspects of program and student need documented in the application. Prior to conducting cost comparisons with applicant data, the Secretary shall:

1. establish standards for developing and applying a database of comparable information to be utilized in rate determinations and publish the standards on the Agency's website;
2. annually update the database of comparable information; and
3. implement a procedure to document and retain the process and basis for each determination, including the comparable data applied.

(h) The Secretary shall determine the rate on a per-student basis by dividing the total costs determined in subsection (g) by the school's approved operational capacity, which shall be determined by the Secretary from the information provided in subsection (d)(2).

(i) The Secretary shall notify a therapeutic school that has submitted an application for new rate approval pursuant to subsection (d) of the final rate approval by January 15.

(j) After the Secretary approves a rate for a therapeutic school, the school shall not exceed that rate until such time as a new tuition rate is approved by the Secretary. In the case of a service required by a student's individualized education program that is not included within the school's approved rate, the LEA shall decide whether to contract for the service with the therapeutic school. The LEA shall provide notice of its decision to the Secretary within 5 days.

(k) A therapeutic school that is not satisfied with the final rate may request reconsideration by the Secretary. Requests for reconsideration shall be made in writing to the Secretary within thirty days of the final rate approval. Upon receiving the Secretary's answer regarding reconsideration, if the therapeutic school is not satisfied, it may file an appeal with the Board in accordance with the requirements of Section 1230, et seq. Alternatively, a therapeutic school may appeal to the Board pursuant to Section 1230, et seq. without first seeking reconsideration by the Secretary. The Board's determination of the appeal shall be final.

Section 2233. Standards and Regulations.

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

Section 2234. Corrections Education Program

The Secretary shall conduct a review of the Corrections Education Program in accordance with the procedures and standards contained within Sections 2220 through 2229.

Section 2235. Approval of Tutorial Programs

Statutory authority: 16 V.S.A. §828.

2235.1. Definitions

"Tutorial program" means education provided to a student who is placed in a short-term program that is not administered by an 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 Secretary may waive the average length of stay time period for individual programs, based upon needs of the children served by the program.

2235.2. Procedures for Approval

2235.2.1. Application

An application for approval or renewal of approval as a tutorial program 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's enrollment, including a statement of whom it is designed to serve.
- (e) A description of the plan of organization for the tutorial program.
- (f) A tutorial program calendar.

2235.2.2. Review

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

2235.2.3. Report to the Secretary

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

2235.2.4. Board Action

The Secretary shall recommend approval or disapproval for action by the Board at its next regular meeting. Officials of the tutorial program shall be notified of this meeting date.

2235.2.5. Term of Approval

The 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.

2235.2.6. Renewal

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

2235.2.7. Denial, Revocation, or Suspension of Approval

Prior to recommending denial, revocation, or suspension of approval to the Board, the Secretary 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.

2235.2.8. Standards and Regulations

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

2235.3. Criteria for Approval

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

- (a) 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 subsection (j) below.
- (b) The tutorial program has sufficient facilities and materials or access to other facilities and additional materials as necessary to provide an appropriate education.
- (c) The tutorial program's facilities and operation comply with local, State, and federal requirements pertaining to the health and safety of children.
- (d) 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 to which they are assigned.
- (e) 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.
- (f) All professional staff have relevant experience and/or training in the duties to which they are assigned.
- (g) The tutorial program maintains a register of the daily attendance of each of its students and reports the attendance to the responsible LEA.

(h) 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 individualized education program.

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

(j) 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 the Department for Children and Families, community mental health centers, and family-parent child centers by:

(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.

(2) Reviewing the individualized education program, the child's needs, and the tutorial's own ability to implement the individualized education program.

(3) Making a formal referral for a special education evaluation to the responsible LEA, if when receiving a child, the child is suspected of having a disability.

(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.

(5) Participating in evaluation procedures and in the development of individualized education programs, including plans for reintegration and transition services.

(6) Implementing individualized education programs.

(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.

(k) 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 each of the following areas:

(1) Admissions.

(2) Discipline.

(3) Significant change in placement.

2235.4. Rate Approval for Non-Residential Tutorial Programs

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

(b) 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.

(c) The Secretary shall review each tutorial program's annual rate report. If the Secretary concludes that a tutorial program's rates are not reasonably related to the services provided, the Secretary shall make a determination as to the maximum rate that public school districts and the Agency would pay to the tutorial program for those services and offer the tutorial program an opportunity for explanation regarding why the maximum rate the Agency would pay is not adequate. If the explanation is not satisfactory, the Secretary shall refer the matter to the Board.

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

(2) The Board's determination shall be final.

Section 2236. Approval of Distance Learning Schools

Section 2237. Statutory Authority

16 V.S.A. § 166.(b)(6).

Section 2238. Definition

A "Distance Learning School" means an independent school that offers a program of elementary or secondary education through correspondence, electronic mail, satellite communication, or other means and that, because of its structure, does not meet some or all the rules of the Board for approved independent schools and is ineligible to receive public tuition payments pursuant to 16 V.S.A. § 166(b)(6).

Section 2239. Procedures and Standards

The distance learning school shall meet the procedures and standards set forth in Sections 2220-2228 above that, because of its structure, can be applied, and the following rules:

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

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

(c) The distance learning school offers an educational program that 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.

(d) 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.

(2) Measure student progress to ensure that students continue to benefit from such instruction.

(e) 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.

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

(g) Tuition:

(1) Tuition policies, including tuition collection practices, are written, clear, and provided to parents in advance of enrollment, including notification that the school shall not be eligible to receive tuition payments from school districts pursuant to 16 V.S.A. § 166(b)(6).

(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.

(h) In the event that the school closes, the distance learning school has policies for:

(1) Tuition adjustment or refund.

(2) Preservation and release of student records.

Section 2240. Certification of Post-Secondary Schools

2240.1. Definitions

(a) "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.

(b) "A post-secondary school whose primary operation is in the State of Vermont" means a post-secondary school that offers the majority of its courses in an institution in Vermont or that maintains its principal administrative offices in Vermont and offers post-secondary courses in Vermont.

(c) "Confer a degree" and "degree-granting authority" means 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 that 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.

(d) "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.

Section 2241. Certification of Post-Secondary Schools Chartered in Vermont

2241.1. Statutory Authority

16 V.S.A. § 176.

2241.2. [Repealed]**2241.3. Application for Certificate of Approval**

A person desiring a certificate of approval or certificate of degree-granting authority from the Board shall file an application with the Secretary prior to offering post-secondary credit-bearing courses or programs and prior to admitting its first student. The application shall indicate the certification sought and shall include a description of the school that 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) that 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 physical plant, library, and equipment.
- (i) A description of academic programs, including their level, site, and length. The application shall set forth the minimum credit requirements, if any.
- (j) A statement regarding the school's professional staff, including its policies 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) The official website address, 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) through online delivery or by correspondence, a description of those activities and proof of relevant licensure.

(n) 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.

Section 2242. Certification of Post-Secondary Schools Not Chartered in Vermont

2242.1. Statutory Authority

16 V.S.A. § 176.a.

2242.2. Application for Certificate of Approval

A person desiring a certificate of approval from the Board shall file an application with the Secretary prior to admitting students. A person may file an application for a certificate of degree granting authority at any time but may not admit students without having received a certificate of approval and may not confer or offer to confer a degree without having received a certificate of degree granting authority unless exempt under Subsection 2240.1, subsection (c). The application shall include a description of the school that 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) that 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 physical plant, library, and equipment.

(i) A description of academic programs, including their level, site, and length. The application shall set forth the minimum credit requirements, if any.

(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) through online delivery or by correspondence, a description of those activities and proof of relevant licensure.

(n) 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) Documentation of accreditation by any regional, national, or programmatic institutional accrediting agency recognized by the U.S. Department of Education.

2242.3. Registration

A post-secondary school seeking continued operation in Vermont after initial approval from the Board shall register with the Agency within one-year of receiving approval from the Board and annually thereafter on or before September 1. Registration shall be on a form prescribed by the Secretary.

Section 2243. Review Process for Post-Secondary Schools Chartered In and Outside Vermont

2243.1. Review of Application for Certificate of Approval for Schools Chartered In and Outside Vermont

Upon receipt of an application for a certificate of approval, the Secretary shall appoint a review team of no fewer than two individuals. The Secretary 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 by, if necessary, visiting the school. The team shall present a written recommendation regarding certification to the Secretary within ninety days of the receipt of the completed application unless a longer period is required and explained in writing to the applicant. A copy of the recommendation shall be provided at the same time to the applicant. The applicant shall be given thirty days to respond and, if requested, shall be afforded a hearing before the Secretary or his or her designee before a recommendation regarding certification is made by the Secretary to the Board.

2243.2. Review of 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 Subsection 2243.6, subsection (a) are met, the Secretary shall contact the Vermont Higher Education Council, which shall review the application and determine the accuracy of its contents by, if necessary, visiting the school. The Secretary may also appoint independent reviewers to accompany representatives of the Vermont Higher Education Council reviewing the school. The Vermont Higher Education Council shall present written recommendations regarding certification to the Secretary within ninety 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 Secretary, may either join in the recommendations of the Vermont 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 Secretary. The applicant shall be given thirty days to respond to the recommendations and, if requested, shall be afforded a hearing before the Secretary or his or her designee before a recommendation regarding certification is made by the Secretary to the Board. The Board shall be provided with a copy of the recommendation of the Vermont 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 Secretary 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 Board acts on further certification. Any school seeking renewal that has obtained initial approval to offer or operate a program of college or professional education for credit or degree on or after January 1, 2015, shall obtain accreditation from an accrediting entity recognized by the U.S. Department of Education, in order to be considered eligible for renewal by the Board within the first ten years of operation.

2243.4. Costs of Review

Post-secondary schools seeking a certificate of approval or renewal thereof shall be responsible for payment of fees as detailed in 16 V.S.A. §177. to the Agency to cover the costs of services related to the certification. In addition, the applicant shall separately reimburse the non-Agency site visit review team members for travel, food and, lodging expenses associated with evaluation costs. Schools seeking a certificate of degree-granting authority shall be responsible for payment of fees as detailed in 16 V.S.A. §177. to the Agency, a portion of which will be paid to the Vermont Higher Education Council to cover the costs of certification. In addition, the applicant shall separately reimburse individuals serving on the review team for 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.

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 that 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 or program. The plan shall specify the dollar amounts and proportions of income by source, including:

- (1) Tuition and fees.
- (2) Other school-generated funds.
- (3) Federal or State funds.

(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 that 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 on the school's website and in a general catalogue, bulletin, or other public information document provided to prospective students prior to enrollment.

(a) Name and physical 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) A statement of the certificates or diplomas awarded upon graduation, if any.
- (o) A statement of the 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) The system of grading or evaluation.
- (q) The school's policy establishing standards for determining adequate progress.
- (r) The availability and extent of student services such as job placement services, 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 Veteran's Affairs-approving agency course approval, and State certification.
- (u) The school's policy regarding the refund of tuition and other fees collected in advance of enrollment or class attendance.
- (v) The school's "closing" policy establishing procedures that 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) 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 that believes that one or more of the above requirements for certification should not be applied to it may request in writing that such requirement be waived in its application for certification. Requests for waivers must accompany the application. The 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:

- (a) 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.
- (b) Schools desiring to offer an associate degree shall provide and require completion of a minimum of 60 semester credit hours or equivalent learning experiences.
- (c) Each educational program leading to a baccalaureate degree shall provide and require a minimum of 120 semester credit hours or equivalent learning experiences.
- (d) Candidates for a degree shall be required to complete a coherent program of study.

2243.7. Certification Limitations

The 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 that has been granted either a certificate of approval or a certificate of degree granting authority shall notify the Board prior to making substantive changes in or additions to the educational program described in its last application for certification. The Board may require a school to reapply for certification following program changes that 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 such as changing from an associate to an undergraduate degree program, or adding a new graduate degree program, or a new 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 Board, the Secretary shall notify the school in writing of the reasons for the proposed action. The school shall be given thirty days to respond and, if requested, shall be afforded a hearing before the Secretary or the Secretary's 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, including:

- (a) Failure of the school to continue to meet criteria for certification herein specified.
- (b) Failure of the school to meet the 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.

(g) Refusal to permit team evaluation or other investigations provided for under these rules.

(h) Change in accreditation status.

2243.8.3 Investigations.

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

2243.8.4. Loss of Recognition for Accreditor

(a) In the event an accrediting entity is no longer recognized by the U.S. Department of Education, any post-secondary school having received accreditation from such entity shall:

(1) Notify the Board in writing within thirty days of receiving notice or information of such loss of recognition.

(2) Apply for accreditation with a recognized accreditor at least ninety days before the school's existing accreditation expires.

(b) The post-secondary school may continue to operate under its approval by the Board pending receipt of its new accreditation, but in no case longer than twenty-four months. The Board may extend this period upon request of a post-secondary school going through the accreditation process.

Section 2250. Preservation of Post-Secondary Institutions' Student Records

Statutory Authority: 16 V.S.A. §175.

2250.1. General

Institutions of higher education are required to maintain their student academic records in a form prescribed by the Board. The Agency is authorized to ensure that the student academic records are in appropriate form. The institution of higher education is required to inform the 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 Board in a satisfactory form should the institution discontinue operation. At a minimum, the records shall be kept current and preserved against damage or loss.

2250.2.1. Monitoring

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

2250.2.2. Return of Records

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

2250.2.3. 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 rules.

2250.3. Form and Contents of Academic Records

The permanent academic record of each student registered for credit at a post-secondary institution that operates in this State, whether or not such institution is chartered in this State, shall contain at a minimum:

- (a) The identification of the institution.
- (b) The identification of the student.
- (c) 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.
- (d) Periods of enrollment covered by subsection (c) above.
- (e) The student's status at the close of the last period of enrollment.
- (f) The degree and/or certificates awarded.

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

[Section 2260 to 2265 Repealed by Operation of Law.]

Section 2266. Post-Secondary Online or Correspondence Schools

An online or correspondence school that offers post-secondary credits or degrees shall also meet the applicable requirements of 16 V.S.A. §§176 and 176a.

Section 2270. Private Kindergarten Approval

Statutory Authority: 16 V.S.A. §166(b).

Section 2271. Procedure for Approval

2271.1. Application

Every person or entity seeking to operate as an approved kindergarten shall apply in writing to the Secretary. An application for approval shall contain the following:

- (a) The name and address of the school.
- (b) A description of the school's curriculum and methods of instruction.
- (c) A description of the school's physical facilities.
- (d) A list of the school's staff and their qualifications.
- (e) The operating schedule of the school.

(f) A statement certifying that the school is in compliance with the Kindergarten Nursery School provisions in the Regulations for Day Care of the Department for Children and Families. (hereinafter "D.C.F. Kindergarten Regulations").

2271.2. Appointment of Reviewer

Upon receipt of an application for approval, the Secretary shall appoint an educator to review the application and visit the school. In addition, the Secretary shall contact D.C.F. to determine on his or her behalf whether the school meets the "D.C.F. 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 publicly supported kindergarten.

2271.3. Review

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

2271.4. Report to the Secretary

The appointed educator shall present a written report including a recommendation regarding approval to the Secretary. The report of the appointed educator shall incorporate the determination of D.C.F. concerning compliance with the "D.C.F. Kindergarten Regulations." A copy of the report and recommendation shall be provided at the same time to the applicant.

2271.5. Secretary's Recommendation

The Secretary shall recommend approval or disapproval for action by the Board at its next regular meeting. Officials of the kindergarten shall be notified of this meeting date.

Section 2272. Criteria for Approval

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

- (a) The curriculum provides a minimum course of study, as defined in 16 V.S.A. §906., Courses of Study, with learning experiences adapted to a student's age and ability.
- (b) The school is in compliance with state requirements pertaining to the health and safety of students adopted by the Department of Labor and the Department of Health. In regard 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.)
- (c) The director and teachers in the kindergarten are qualified through training or experience in:
 - (1) Structuring kindergarten learning environments that enhance cognitive and social development.
 - (2) Teaching skills and concepts in mathematics, language arts, science, the arts, and health that are consistent with principles of child development.
 - (3) Planning and leading activities that foster social and emotional growth in young children.

(4) Engaging with parents and family of children to ensure home support and to promote learning outside of the school or center.

(5) Identifying developmental delays in young children.

(d) The kindergarten maintains an operating schedule that, exclusive of time allowed for meals and recess periods, includes a total number of instructional hours that is not less than that required of a public-school kindergarten.

(e) The facility and program meet the "D.C.F. Kindergarten Regulations."

Section 2273. Additional Requirements

2273.1. Records

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. Professional Development

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

Section 2274. Term of Approval

The 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.

Section 2275. Revocation or Suspension of Approval

Prior to recommending revocation or suspension of approval to the Board, the Secretary 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.

Section 2276. Rule of Construction

This rule shall not be construed to impose obligations on schools that are inconsistent with that school's constitutional or statutory rights. In addition, this rule shall not be construed to restrict any student's constitutional or statutory rights.

Section 2277. Effective Date

Amendments to all Sections shall become effective July 1, 2024, except that Subsections 2223.3.3(b) (Instructional Strategies) and 2223.3.3(c)(1) (Curriculum Content) will take effect on July 1, 2025.

VERMONT **GENERAL ASSEMBLY**

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Title 16 : Education

Chapter 003 : State Board of Education

Subchapter 001 : General Provisions

(Cite as: 16 V.S.A. § 164)

§ 164. State Board; general powers and duties

The State Board shall engage local school board members and the broader education community and, consistent with the provisions of this title, its own rules, and rules adopted by the Secretary, establish and regularly update a long-term strategic vision for the delivery of educational services in Vermont; advise the General Assembly, the Governor, and the Secretary of Education on high-priority educational policies and issues as they arise; and act in accordance with legislative mandates, including the adoption of rules and executing special assignments. In addition to other specified duties, the Board shall:

(1) Establish such advisory commissions as in the judgment of the Board will be of assistance to it in carrying out its duties. Advisory commission members shall serve with or without compensation at the discretion of the Board but shall receive actual expenses incurred in pursuance of their duties.

(2) Have the authority to enter into agreements with school districts, municipalities, states, the United States, foundations, agencies, or individuals for service, educational programs, or research projects.

(3) Examine and determine all appeals that by law are made to it and prescribe rules of practice in respect thereto, not inconsistent with law.

(4) [Repealed.]

(5) [Repealed.]

(6) Make regulations governing the attendance and records of attendance of all students and the department of students attending public schools.

(7) Adopt rules pursuant to 3 V.S.A. chapter 25 to carry out the powers and duties of the Board as directed by the General Assembly, within the limitations of legislative intent.

(8) [Repealed.]

(9) Implement and continually update standards for student performance in appropriate content areas and at appropriate intervals in the continuum from kindergarten to grade 12 and methods of assessment to determine attainment of the standards for student performance. The standards shall be rigorous, challenging, and designed to prepare students to participate in and contribute to the democratic process and to compete in the global marketplace. The standards shall include a standard for reading level proficiency for students completing grade three.

(10) [Repealed.]

(11) If deemed advisable, determine educational standards for admission to and graduation from the public schools.

(12) [Repealed.]

(13) Be the State Board for the program of adult education and literacy and perform all the duties and powers prescribed by law pertaining to adult education and literacy and to act as the State approval agency for educational institutions conducting programs of adult education and literacy.

(14) Adopt rules for approval of independent schools.

(15) Establish criteria governing the establishment of a system for the receipt, deposit, accounting, and disbursement of all funds by supervisory unions and school districts.

(16) In cooperation with the Secretary, ensure that the Agency develops information, plans, and assistance to aid in making technology and telecommunications available and coordinated in all school districts. The State Board shall develop guidelines for distribution of federal, State, or private funds designated for the development or expansion of distance learning technologies. The guidelines shall encourage, consistent with any terms or conditions established by the funding source, collaboration between schools and school districts to realize economic and educational efficiencies.

(17) Report annually on the condition of education statewide and on a supervisory union and school district basis. The report shall include information on attainment of standards for student performance adopted under subdivision (9) of this section, number and types of complaints of hazing, harassment, or bullying made pursuant to chapter 9, subchapter 5 of this title and responses to the complaints, financial resources and expenditures, and community social indicators. The report shall be organized and presented in a way that is easily understandable by the general public and that enables

each school, school district, and supervisory union to determine its strengths and weaknesses. To the extent consistent with State and federal privacy laws and regulations, data on hazing, harassment, or bullying incidents shall be disaggregated by incident type, including disaggregation by ethnic groups, racial groups, religious groups, gender, sexual orientation, gender identity, disability status, and English language learner status. The Secretary shall use the information in the report to determine whether students in each school, school district, and supervisory union are provided educational opportunities substantially equal to those provided in other schools, school districts, and supervisory unions pursuant to subsection 165(b) of this title.

(18) Ensure that Vermont's students, including students enrolled in secondary career technical education, have access to a substantially equal educational opportunity by developing a system to evaluate the equalizing effects of Vermont's education finance system and education quality standards under section 165 of this title.

(19) [Repealed.]

(20) Pursuant to section 806g of this title, constitute the State Council for the Interstate Compact on Educational Opportunity for Military Children and appoint to the Council a Compact Commissioner and Military Family Education Liaison, who may be the same person. The Board may appoint additional members.

(21) Report annually to the Governor and the General Assembly on the progress the Board has made on the development of education policy for the State. (Added 1969, No. 298 (Adj. Sess.), § 15; amended 1971, No. 14, § 5, eff. March 11, 1971; 1975, No. 48, §§ 3, 14, eff. April 15, 1975; 1975, No. 147 (Adj. Sess.), § 3; 1981, No. 151 (Adj. Sess.), § 5; 1983, No. 247 (Adj. Sess.), § 4(1); 1983, No. 248 (Adj. Sess.), § 4; 1987, No. 97, § 4, eff. June 23, 1987; 1987, No. 228 (Adj. Sess.), § 6; 1989, No. 118, § 3; 1991, No. 24, § 11; 1991, No. 204 (Adj. Sess.), § 7; 1997, No. 60, § 3, eff. June 26, 1997; 1997, No. 138 (Adj. Sess.), § 3, eff. April 27, 1998; 1999, No. 113 (Adj. Sess.), § 1a; 1999, No. 120 (Adj. Sess.), § 3; 2001, No. 151 (Adj. Sess.), § 50, eff. July 1, 2003; 2005, No. 214 (Adj. Sess.), § 12; 2007, No. 154 (Adj. Sess.), § 6; 2011, No. 43, § 2, eff. July 1, 2011; 2011, No. 45, § 7a, eff. May 24, 2011; 2011, No. 98 (Adj. Sess.), § 4, eff. April 1, 2013; 2013, No. 56, § 22, eff. May 30, 2013; 2013, No. 92 (Adj. Sess.), §§ 8, 9, 302, eff. Feb. 14, 2014; 2013, No. 142 (Adj. Sess.), § 26; 2015, No. 23, § 18; 2015, No. 131 (Adj. Sess.), § 23; 2019, No. 1, § 2, eff. Mar. 29, 2019; 2019, No. 131 (Adj. Sess.), § 53; 2021, No. 66, § 20, eff. June 7, 2021.)

VERMONT **GENERAL ASSEMBLY**

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Title 16 : Education

Chapter 003 : State Board of Education

Subchapter 001 : General Provisions

(Cite as: 16 V.S.A. § 166)

§ 166. Approved and recognized independent schools

(a) Authority. An independent school may operate and provide elementary education or secondary education if it is either approved or recognized as set forth in this section.

(b) Approved independent schools. On application, the State Board shall approve an independent school that offers elementary or secondary education if it finds, after opportunity for hearing, that the school provides a minimum course of study pursuant to section 906 of this title and that it substantially complies with all statutory requirements for approved independent schools and the Board's rules for approved independent schools. An independent school that intends to accept public tuition shall be approved by the State Board only on the condition that the school agrees, notwithstanding any provision of law to the contrary, to enroll any student who requires special education services and who is placed in or referred to the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education program team or by the local education agency; provided, however, that this requirement shall not apply to an independent school that limits enrollment to students who are on an individualized education program or a 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 the local education agency and the school. Except as provided in subdivision (6) of this subsection, the Board's rules must at minimum require that the school have the resources required to meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and special services that are in accordance with any State or federal law or regulation. Approval may be granted without State Board evaluation in the case of any school accredited by a

private, State, or regional agency recognized by the State Board for accrediting purposes, provided that the State Board shall determine that the school complies with all student enrollment provisions required by law.

(1) On application, the State Board shall approve an independent school that offers kindergarten but no other graded education if it finds, after opportunity for hearing, that the school substantially complies with the Board's rules for approved independent kindergartens. The State Board may delegate to another State agency the authority to evaluate the safety and adequacy of the buildings in which kindergartens are conducted but shall consider all findings and recommendations of any such agency in making its approval decision.

(2) Approvals under this subsection (b) shall be for a term established by rule of the Board but not greater than five years.

(3) An approved independent school shall provide to the parent or guardian responsible for each of its students, prior to accepting any money for a student, an accurate statement in writing of its status under this section and a copy of this section. Failure to comply with this provision may create a permissible inference of false advertising in violation of 13 V.S.A. § 2005.

(4) Each approved independent school shall provide to the Secretary on October 1 of each year the names, genders, dates of birth, and addresses of its enrolled students. Within seven days of the termination of a student's enrollment, the approved independent school shall notify the Secretary of the name and address of the student. The Secretary shall notify the appropriate school officials as provided in section 1126 of this title.

(5) The State Board may revoke, suspend, or impose conditions upon the approval of an approved independent school, after having provided an opportunity for a hearing, for substantial failure to comply with the minimum course of study, for failure to demonstrate that the school has the resources required to meet its stated objectives, for failure to comply with statutory requirements or the Board's rules for approved independent schools, or for failure to report under subdivision (4) of this subsection (b). Upon that revocation or suspension, students required to attend school who are enrolled in that school shall become truant unless they enroll in a public school, an approved or recognized independent school, or a home study program.

(6) This subdivision (6) applies to an independent school located in Vermont that offers a distance learning program and that, because of its structure, does not meet some or all the rules of the State Board for approved independent schools. In order to be approved under this subdivision, a school shall meet the standards adopted by rule of the State Board for approved independent schools that can be applied to the applicant school and any other standards or rules adopted by the State Board regarding these types of schools. A school approved under this subdivision shall not be eligible to

receive tuition payments from public school districts under chapter 21 of this title.

(7) Approval for independent residential schools under this subsection is also contingent upon proof of the school's satisfactory completion of an annual fire safety inspection by the Department of Public Safety or its designee pursuant to 20 V.S.A. chapter 173, subchapter 2. A certificate executed by the inspecting entity, declaring satisfactory completion of the inspection and identifying the date by which a new inspection must occur, shall be posted at the school in a public location. The school shall provide a copy of the certificate to the Secretary of Education after each annual inspection. The school shall pay the actual cost of the inspection unless waived or reduced by the inspecting entity.

(8)(A) If an approved independent school experiences any of the following financial reporting events during the period of its approved status, the school shall notify the Secretary of Education within five days after its knowledge of the event unless the failure is de minimis:

(i) the school's failure to file its federal or State tax returns when due, after permissible extension periods have been taken into account;

(ii) the school's failure to meet its payroll obligations as they are due or to pay federal or State payroll tax obligations as they are due;

(iii) the school's failure to maintain required retirement contributions;

(iv) the school's use of designated funds for nondesignated purposes;

(v) the school's inability to fully comply with the financial terms of its secured installment debt obligations over a period of two consecutive months, including the school's failure to make interest or principal payments as they are due or to maintain any required financial ratios;

(vi) the withdrawal or conditioning of the school's accreditation on financial grounds by a private, State, or regional agency recognized by the State Board for accrediting purposes; or

(vii) the school's insolvency, as defined in 9 V.S.A. § 2286(a).

(B)(i) If the Secretary reasonably believes that an approved independent school lacks financial capacity to meet its stated objectives during the period of its approved status, then the Secretary shall notify the school in writing of the reasons for this belief and permit the school a reasonable opportunity to respond.

(ii) If the Secretary, after having provided the school a reasonable opportunity to respond, does not find that the school has satisfactorily responded or demonstrated its financial capacity, the Secretary may establish a review team that, with the consent of the school, includes a member of the Council of Independent Schools, to:

(l) conduct a school visit to assess the school's financial capacity;

(II) obtain from the school such financial documentation as the review team requires to perform its assessment; and

(III) submit a report of its findings and recommendations to the State Board.

(iii) If the State Board concludes that an approved independent school lacks financial capacity to meet its stated objectives during the period of its approved status, the State Board may take any action that is authorized by this section.

(iv) In considering whether an independent school lacks financial capacity to meet its stated objectives during the period of its approved status and what actions the State Board should take if it makes this finding, the State Board may consult with, and draw on the analytical resources of, the Vermont Department of Financial Regulation.

(C) Information provided by an independent school under this subsection that is not already in the public domain is exempt from public inspection and copying under the Public Records Act and shall be kept confidential.

(c) Recognized independent schools. Upon filing an enrollment notice, a recognized independent school may provide elementary or secondary education in Vermont. The enrollment notice shall be on a form provided by the Secretary and shall be filed with the Secretary no earlier than three months before the beginning of the school year for the public schools in the town in which the applicant proposes to locate.

(1) The enrollment notice shall contain the following information and assurances:

(A) a statement that the school will be in session an amount of time substantially equivalent to that required for public schools;

(B) a detailed description or outline of the minimum course of study for each grade level the school offers and how the annual assessment of each student will be performed; and

(C) assurances that:

(i) the school will prepare and maintain attendance records for each student enrolled or regularly attending classes;

(ii) at least once each year, the school will assess each student's progress, and will maintain records of that assessment, and present the result of that assessment to each student's parent or guardian;

(iii) the school's educational program will include the minimum course of study set forth in section 906 of this title;

(iv) the school will have teachers and materials sufficient to carry out the school's educational program; and

(v) the school will meet such State and federal laws and regulations concerning its physical facilities and health and safety matters as are applicable to

recognized independent schools.

(2) If the Secretary has information that creates significant doubt about whether the school would be able to meet the requirements set forth in this subsection (c), the Secretary may call a hearing. At the hearing, the school shall establish that it can meet the requirements for recognized independent schools. Failure to do so shall result in a finding by the Secretary that the school must take specified action to come into compliance within a specified time frame or the children enrolled must attend another recognized independent school, a public school, an approved independent school, or a home study program, or be declared truant unless absent with legal excuse.

(3) A recognized independent school shall provide to each student's parent or guardian a copy of its currently filed statement of objectives and a copy of this section. The copy shall be provided when the student enrolls or before September 1, whichever comes later. Failure to comply with this subsection may create a permissible inference of false advertising in violation of 13 V.S.A. § 2005.

(4) A recognized independent school shall renew its enrollment notice annually. An independent school shall be recognized for a period not to exceed five years by the Secretary without need for filing an annual enrollment notice if:

(A) it is recognized by an organization approved by the State Board for the purpose of recognizing such school; or

(B) it is accredited by a private, state, or regional agency approved by the State Board for accrediting purposes; provided, however, nothing in this subdivision (4) shall be construed to prohibit the Secretary from initiating a hearing under this subsection (c).

(5) If the Secretary has information that creates significant doubt about whether the school, once in operation, is meeting the requirements for recognized independent schools, the Secretary may call a hearing. At the hearing, the school shall establish that it has met the requirements for recognized independent schools. Failure to do so shall result in a finding by the Secretary that:

(A) the school may not be in operation for the remainder of the school year and that the children are truant unless absent with legal excuse or enrolled in a public school, an independent school, another recognized independent school, or a home study program; or

(B) the school must take specified action to come into compliance within a specified time frame or the school will not be permitted to operate for the remainder of the school year.

(6) Each recognized independent school shall provide to the Secretary on October 1 of each year the names, genders, dates of birth, and addresses of its enrolled students. Within seven days of the termination of a student's enrollment, the recognized independent school shall notify the Secretary of the name and address of the student.

The Secretary shall notify the appropriate school officials as provided in section 1126 of this title.

(7) After the filing of the enrollment notice or at a hearing, if the school is unable to comply with any specific requirements due to deep religious conviction shared by an organized group, the Secretary may waive such requirements if he or she determines that the educational purposes of this subsection are being or will be substantially met.

(d) Council of Independent Schools. A Council of Independent Schools is created consisting of 11 members, no fewer than three of whom shall be representatives of recognized independent schools. The Secretary shall appoint nine members from within the independent schools' community. The Secretary shall appoint two members from the public-at-large. Each member shall serve for two years and may be reappointed for up to an additional two terms. The Council shall adopt rules for its own operation. A chair shall be elected by and from among the members. The duties of the Council shall include advising the Secretary on policies and procedures with respect to independent schools. No hearing shall be initiated under this section before the State Board or by the Secretary until the recommendations of the Council have been sought and received. The recommendations of the Council, including any minority reports, shall be admissible at the hearing.

(e) Harassment, hazing, and bullying policies. The board of trustees of an approved or recognized independent school operating in Vermont shall adopt harassment, hazing, and bullying prevention policies; establish procedures for dealing with harassment, hazing, and bullying of students; and provide notice of these. The provisions of chapter 9, subchapter 5 of this title for public schools shall apply to this subsection, except that the board shall follow its own procedures for adopting policy.

(f) Tuition bills. An approved independent school that accepts students for whom the district of residence pays tuition under chapter 21 of this title shall bill the sending district monthly for a State-placed student and shall not bill the sending district for any month in which the State-placed student was not enrolled.

(g) Tuition students; assessments. An approved independent school that accepts students for whom the district of residence pays tuition under chapter 21 of this title shall use the assessment or assessments required under subdivision 164(9) of this title to measure attainment of standards for student performance of those students. In addition, the school shall provide data related to the assessment or assessments as required by the Secretary. (Amended 1981, No. 151 (Adj. Sess.), § 8; 1983, No. 248 (Adj. Sess.), § 3; 1989, No. 44, § 1; 1993, No. 162 (Adj. Sess.), § 3; 1995, No. 157 (Adj. Sess.), § 2; 1997, No. 60, § 5, eff. June 26, 1997; 1997, No. 84 (Adj. Sess.), § 2; 1999, No. 120 (Adj. Sess.), § 5; 2007, No. 66, § 2; 2007, No. 138 (Adj. Sess.), § 1, eff. May 9, 2008; 2009, No. 153 (Adj. Sess.), § 21b; 2013, No. 92 (Adj. Sess.), § 13, eff. Feb. 14, 2014; 2017, No. 173 (Adj. Sess.), § 20, eff. May 25, 2018; 2017, No. 173 (Adj. Sess.), § 20a, eff. July 1, 2023; 2019, No. 131

(Adj. Sess.), § 54; 2021, No. 20, § 51; 2021, No. 166 (Adj. Sess.), § 14, eff. June 1, 2022.)

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Title 16 : Education

Chapter 101 : Special Education

Subchapter 001 : General Provisions

(Cite as: 16 V.S.A. § 2958)

§ 2958. Residential Placement Review Team; residential placements

(a) A supervisory union shall notify the parents and the Secretary when it believes residential placement is a possible option for inclusion in a child's individualized education program.

(b) The Secretary may establish from within the Agency a Residential Placement Review Team. At the discretion of the Secretary, other persons not employed by the Agency may be appointed to serve on the Team. The Team shall make every effort to assist supervisory unions and parents in understanding the range of educational options available as early as possible in the planning process for the child. The Team shall:

(1) advise supervisory unions on alternatives to residential placement;

(2) review each individualized education program calling for residential placement of a student to consider whether the student can be educated in a less restrictive environment;

(3) assist supervisory unions in locating cost-effective and appropriate residential facilities where necessary;

(4) request a new individualized education program where it believes that appropriate alternatives to residential placement are available; and

(5) offer mediation as a means of resolving disputes relating to the need for residential placement or the particular residential facility recommended for a child with a disability.

(c) The State Board shall by rule establish policies and procedures for the operations of the Residential Placement Review Team. The rules shall be consistent with federal law

and, at minimum, shall include the following:

(1) provision for the Secretary to initiate a due process proceeding to challenge the need for residential placement where the team believes that a less restrictive educational placement is both available and appropriate for the child with a disability, and to reimburse the supervisory union and the parents or guardian of the child for reasonable costs and attorney's fees in the event the Secretary does not prevail;

(2) provision for technical assistance, a plan for correction, or withholding of funds under this section where a supervisory union places a child in a residential facility more expensive than an available and appropriate alternative residential facility; however, such withholding of funds shall not exceed the difference between the cost of the two facilities and the rule shall provide an opportunity for appeal of the withholding; and

(3) procedures and timelines to ensure that residential placement of a child with disabilities is not delayed or disrupted so as to adversely affect the child.

(d) Whenever a residential placement is determined to be necessary and appropriate for a child with a disability, the Residential Placement Review Team shall include in the child's individualized education program goals and objectives designed to reintegrate the child into a local school district.

(e) Costs for residential placement shall be reimbursed under subchapter 2 of this chapter only if the residential facility is approved by the State Board for the purposes of providing special education and related services to children with disabilities. (Added 1989, No. 107, § 5; amended 1995, No. 157 (Adj. Sess.), § 22; 2013, No. 92 (Adj. Sess.), § 202, eff. Feb. 14, 2014; 2015, No. 148 (Adj. Sess.), § 1, eff. July 1, 2017; 2017, No. 173 (Adj. Sess.), § 7, eff. May 25, 2018.)

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Title 16 : Education

Chapter 101 : Special Education

Subchapter 001 : General Provisions

(Cite as: **16 V.S.A. § 2959**)

§ 2959. Rulemaking; mediation

(a) The State Board shall adopt rules governing the determination of a child's eligibility for special education, accounting and financial reporting standards, program requirements, procedural requirements, and the identification of the supervisory union or agency responsible for each child with a disability.

(b) Subject to rules established by the State Board, the Secretary shall offer mediation to parents, children with disabilities, and districts, supervisory unions, and agencies involved in special education disputes. (Added 1987, No. 235 (Adj. Sess.), § 6; amended 1995, No. 157 (Adj. Sess.), § 22; 2013, No. 92 (Adj. Sess.), § 203, eff. Feb. 14, 2014; 2015, No. 148 (Adj. Sess.), § 1, eff. July 1, 2017.)

VERMONT **GENERAL ASSEMBLY**

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Title 16 : Education

Chapter 101 : Special Education

Subchapter 002 : Aid for Special Education and Support Services

(Cite as: **16 V.S.A. § 2973**)

[Section 2973 effective until July 1, 2023; see also section 2973 effective July 1, 2023 set out below.]

§ 2973. Independent school tuition rates

(a) The Secretary shall establish minimum standards of services for students receiving special education in independent schools in Vermont; shall set, after consultation with independent schools in Vermont, the maximum rates to be paid by the Agency and school districts for tuition, room, and board based on the level of services; and may advise independent schools as to the need for certain special education services in Vermont.

(b) Neither school districts nor any State agency shall pay rates for tuition, room, and board, for students receiving special education in independent schools outside Vermont that are in excess of allowable costs approved by the authorized body in the state in which the independent school is located, except in exceptional circumstances or for a child who needs exceptional services, as approved by the Secretary.

(c) The State Board is authorized to enter into interstate compacts with other states to regulate rates for tuition, room, and board for students receiving special education in independent schools. (Added 1989, No. 230 (Adj. Sess.), § 28; 1991, No. 24, § 11; 2013, No. 92 (Adj. Sess.), § 212, eff. Feb. 14, 2014; 2017, No. 173 (Adj. Sess.), § 21, eff. July 1, 2023.)

[Section 2973 effective July 1, 2023; see also section 2973 effective until July 1, 2023 set out above.]

§ 2973. Independent school tuition rates

(a)(1) Notwithstanding any provision of law to the contrary, an approved independent school that accepts public tuition shall enroll any student with an individualized education program who requires special education services and who is placed in the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education program team or by the local education agency (LEA); provided, however, that this requirement shall not apply to an independent school that limits enrollment to students who are on an individualized education program or a 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 the LEA and the school.

(2) In placing a student with an independent school under subdivision (1) of this subsection, the student's individualized education program team and the LEA shall comply with all applicable federal and State requirements.

(3) An approved independent school is not required to demonstrate that it has the resources to serve every category of special education as defined under State Board of Education rules in order to be approved or retain its approval to receive public funding for general tuition.

(4) The terms "special education services," "LEA," and "individualized education program" or "IEP" as used in this section shall have the same meanings as defined by State Board rules.

(b)(1) The Secretary of Education shall establish minimum standards of services for students receiving special education services in independent schools in Vermont and may advise independent schools as to the need for certain special education services in Vermont.

(2)(A) The Secretary of Education shall set, after consultation with independent schools in Vermont, and based on the level of services provided by the schools, the maximum rates to be paid by the Agency and supervisory unions or school districts for tuition, room, and board for residential placement of students who require special education services. The amount charged by an independent school for tuition shall reflect the school's actual or anticipated costs of providing special education services to the student and shall not exceed the maximum rates set by the Secretary, provided that the Secretary may permit charges in excess of these maximum rates where the Secretary deems warranted.

(B)(i) An approved independent school that enrolls a student under subdivision (a)(1) of this section may bill the responsible LEA for excess special education costs incurred by the independent school in providing special education services beyond those covered by general tuition. Reimbursement of these excess special education costs shall be based on the direct-cost rates approved by the Secretary for services actually provided to the student consistent with the Agency of Education Technical

Manual for special education cost accounting. The Agency of Education shall publish specific elements that must be included as part of an independent school's invoice for excess special education costs, and these elements shall be included in the written agreement required under subdivision (c)(2) of this section.

(ii) In establishing the direct-cost rates for reimbursement under this subdivision (B), the Secretary shall apply the principle of treating an approved independent school and a public school with parity in the amount of federal, State, and local contributions to cover the costs of providing special education services.

(iii) An approved independent school that enrolls a student under subdivision (a)(1) of this section shall provide such documentation to the Secretary as the Secretary deems necessary in order to ensure that amounts payable under this subdivision (B) to the school are reasonable in relation to the special education services provided by the school. The Secretary may withhold, or direct an LEA to withhold, payment under this subdivision pending the Secretary's receipt of required documentation under this subdivision, or may withhold, or direct an LEA to withhold, an amount determined by the Secretary as not reasonable in relation to the special education services provided by the school.

(C)(i) The Secretary shall set, after consultation with independent schools in Vermont, the maximum tuition rates to be paid by the Agency and supervisory unions or school districts to independent schools that limit enrollment to students who are on an IEP or a 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 the LEA and the school. The maximum tuition rates shall be based on the level of services provided by the school.

(ii) The tuition rates established by the Secretary under this subdivision (C) shall be no more than the costs that are reasonably related to the level of services provided by the school and shall be set forth on a form prescribed for that purpose by the Secretary of Education. The Secretary shall determine the relationship between costs and the level of services by using generally accepted accounting principles, such as those set forth in the Handbook (II) for Financial Accounting of Vermont School Systems.

(iii) After the Secretary approves a tuition rate for an independent school under this subdivision (C), the school shall not exceed that tuition rate until such time as a new tuition rate is approved by the Secretary.

(c)(1) In order to be approved as an independent school eligible to receive State funding under subdivision (a)(1) of this section, the school shall demonstrate the ability to serve students with disabilities by:

(A) demonstrating an understanding of special education requirements, including the:

(i) provision of a free and appropriate public education in accordance with federal and State law;

(ii) provision of education in the least restrictive environment in accordance with federal and State law;

(iii) characteristics and educational needs associated with any of the categories of disability or suspected disability under federal and State law; and

(iv) 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:

(i) the development of, and any changes to, the IEP;

(ii) services provided under the IEP and recommendations for a change in the services provided;

(iii) the student's progress;

(iv) the maintenance of the student's enrollment in the independent school;

and

(v) the identification of students with suspected disabilities; and

(E) committing to participate in dispute resolution as provided under federal and State law.

(2) An approved independent school that enrolls a student requiring special education services who is placed with the school under subdivision (a)(1) of this section:

(A) shall enter into a written agreement with the LEA committing to the requirements under subdivision (1) of this subsection (c); and

(B) shall ensure that qualified school personnel attend planning meetings and IEP meetings for the student.

(d)(1) If a student is placed with an approved independent school under subsection (a) of this section and either the LEA and the school each certifies, or the hearing officer under subdivision (3) of this subsection certifies, to the Secretary of Education that the school is unable to provide required IEP services due to its inability to retain qualified staff, then the LEA shall make another placement that satisfies the federal requirements to provide the student with a free and appropriate public education in the least

restrictive environment.

(2) If the conditions in subdivision (1) of this subsection are satisfied:

(A) the approved independent school shall not be subject to any disciplinary action or the revocation of its approved status by the State Board of Education due to its failure to enroll the student; and

(B) no private right of action shall be created on the part of the student or his or her family members, or any other private party, to:

(i) require the LEA to place the student with the approved independent school or the school to enroll the student; or

(ii) hold the LEA or the approved independent school responsible for monetary damages due to the failure of the school to enroll the student or the necessity for the LEA to make an alternative placement.

(3) If the LEA and approved independent school do not agree on whether the school is unable to retain qualified staff under subdivision (1) of this subsection, then the LEA and the school shall jointly contract with a hearing officer to conduct a hearing with the parties and make a determination, which shall be final. The cost for the hearing officer shall be split evenly between the two parties.

(e) Neither a school district nor any State agency shall pay rates for tuition, room, and board for students receiving special education in independent schools outside Vermont that are in excess of allowable costs approved by the authorized body in the state in which the independent school is located, except in exceptional circumstances or for a child who needs exceptional services, as approved by the Secretary.

(f) The State Board is authorized to enter into interstate compacts with other states to regulate rates for tuition, room, and board for students receiving special education in independent schools. (Added 1989, No. 230 (Adj. Sess.), § 28; 1991, No. 24, § 11; 2013, No. 92 (Adj. Sess.), § 212, eff. Feb. 14, 2014; 2017, No. 173 (Adj. Sess.), § 21, eff. July 1, 2023.)

No. 173. An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support.

(H.897)

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Findings * * *

Sec. 1. FINDINGS

(a) In 2016 Acts and Resolves No. 148, the General Assembly directed the Agency of Education to contract with a consulting firm to review current practices and recommend best practices for the delivery of special education services in school districts. The Agency of Education contracted with the District Management Group, which issued in November 2017 its report entitled “Expanding and Strengthening Best-Practice Supports for Students who Struggle” (Delivery of Services Report).

(b) In Act 148, the General Assembly also directed the Agency of Education to contract for a study of special education funding and practice and to recommend a funding model for Vermont designed to provide incentives for desirable practices and stimulate innovation in the delivery of services. The General Assembly required that the study consider a census-based model of funding. The Agency of Education contracted with the University of Vermont and State Agricultural College, and the report of its Department of Education and Social Services entitled “Study of Vermont State Funding for Special Education” was issued in December 2017 (Funding Report).

(c) The Delivery of Services Report made the following five recommendations on best practices for the delivery of special education services:

(1) ensure core instruction meets most needs of most students;

(2) provide additional instructional time outside core subjects to students who struggle, rather than providing interventions instead of core instruction;

(3) ensure students who struggle receive all instruction from highly skilled teachers;

(4) create or strengthen a systems-wide approach to supporting positive student behaviors based on expert support; and

(5) provide specialized instruction from skilled and trained experts to students with more intensive needs.

(d) The Funding Report noted, based on feedback from various stakeholders, including educators, school leaders, State officials, parents, and others, that Vermont's existing reimbursement model of funding special education has a number of limitations in that it:

(1) is administratively costly for the State and localities;

(2) is misaligned with policy priorities, particularly with regard to the delivery of a multitiered system of supports and positive behavioral interventions and supports;

(3) creates misplaced incentives for student identification, categorization, and placement;

(4) discourages cost containment; and

(5) is unpredictable and lacks transparency.

(e) The Funding Report assessed various funding models that support students who require additional support, including a census-based funding model. A census-based model would award funding to supervisory unions based on the number of students within the supervisory union and could be used by the supervisory union to support the delivery of services to all students. The Funding Report noted that the advantages of a census-based model are that it is simple and transparent, allows flexibility in how the funding is used by supervisory unions, is aligned with the policy priorities of serving students who require additional support across the general and special education service-delivery systems, and is predictable.

(f) The General Assembly agrees with the findings in the Delivery of Services Report and with the advantages of moving to a census-based special education funding model as described in the Funding Report. The General Assembly recognizes that changing the models for delivery of services and funding for students who require additional support is a significant change for school systems and their constituencies, and that they will require time and assistance in making necessary adjustments.

* * * Goals * * *

Sec. 2. GOALS

(a) By enacting this legislation, the General Assembly intends to enhance the effectiveness, availability, and equity of services provided to all students who require additional support in Vermont's school districts.

(b)(1) To support the enhanced delivery of these services, the State funding model for special education shall change for all supervisory unions in fiscal year 2021, for school year 2020-2021, from a reimbursement model to a census-based model, which will provide more flexibility in how the funding can be used, is aligned with the State's policy priorities of serving students who require additional support across the general and special education service-delivery systems, and will simplify administration.

(2) The General Assembly recognizes that a student on an individualized education program is entitled, under federal law, to a free and appropriate public education in the least restrictive environment in accordance with that program. The changes to State funding for special education and the delivery of special education services as envisioned under this act are intended to facilitate the exercise of this entitlement.

(c) The General Assembly recognizes that it might be appropriate and equitable to provide a higher amount of census-based funding to supervisory unions that have relatively higher costs in supporting students who require additional support, but the General Assembly does not have sufficient

information on which to base this determination. Therefore, this act directs the Agency of Education to make a recommendation to the General Assembly on whether the amount of the census grant should be increased for supervisory unions that have relatively higher costs in supporting students who require additional support, and if so, the criteria for qualification for the adjustment and the manner in which the adjustment should be applied. The General Assembly intends to reconsider this matter after receiving this recommendation and before the census-based model is implemented.

(d) To provide additional staff and resources to the Agency of Education to support its work with supervisory unions and schools that are transitioning to the best practices recommended in the report entitled “Expanding and Strengthening Best-Practice Supports for Students who Struggle” issued by the District Management Group in November 2017.

Sec. 3. 16 V.S.A. § 2901 is amended to read:

§ 2901. SUCCESS FOR ALL STUDENTS IN THE GENERAL
EDUCATION ENVIRONMENT

(a) ~~It is the policy of the State that each~~ Each local school district shall develop and maintain, in consultation with parents, a comprehensive system of education that ~~will~~ is designed to result, to the extent appropriate, in all students succeeding in the general education environment. A comprehensive system of education includes a full range of services and accommodations that are needed by students in the district. These services could include a separate

alternative program if the district finds that some of its students could be better served in an environment outside the classroom, or if the district finds that separate placement is the best way to provide services to a student who is ~~disrupting the class or~~ having difficulty learning in a traditional school setting for educational, emotional, or personal reasons and thereby impairing the ability of the classroom teacher to provide ~~quality~~ high-quality services to that student or to other students. This chapter does not replace or expand entitlements created by federal law, nor is it the intent of this chapter to create a higher standard for maintaining a student in the general classroom than the standard created in the following federal laws: 20 U.S.C. ~~§ 1401 et seq.~~ chapter 33, Individuals with Disabilities Education Act; 29 U.S.C. § 794, Section 504 of the Rehabilitation Act of 1973; and 42 U.S.C. ~~§ 12101 et seq.~~ chapter 126, Americans with Disabilities Act.

(b) [Repealed.]

(c) No individual entitlement or private right of action is created by this section.

Sec. 4. 16 V.S.A. § 2902 is amended to read:

§ 2902. TIERED SYSTEM OF SUPPORTS AND EDUCATIONAL
SUPPORT TEAM

(a) Within each school district's comprehensive system of educational services, each public school shall develop and maintain a tiered system of academic and behavioral supports for the purpose of providing all students

with the opportunity to succeed or to be challenged in the general education environment. For each school it maintains, a school district board shall assign responsibility for developing and maintaining the tiered system of supports either to the superintendent pursuant to a contract entered into under section 267 of this title or to the school principal. The school shall provide all students a full and fair opportunity to access the system of supports and achieve educational success. The tiered system of supports shall, at a minimum, include an educational support team, instructional and behavioral interventions, and accommodations that are available as needed for any student who requires support beyond what can be provided in the general education classroom, and may include intensive, individualized interventions for any student requiring a higher level of support.

(b) The tiered system of supports shall:

- (1) be aligned as appropriate with the general education curriculum;
- (2) be designed to enhance the ability of the general education system to meet the needs of all students;
- (3) be designed to provide necessary supports promptly, regardless of an individual student's eligibility for categorical programs;
- (4) seek to identify and respond to students in need of support for ~~at-risk behaviors~~ emotional or behavioral challenges and to students in need of specialized, individualized behavior supports; ~~and~~

(5) provide all students with a continuum of evidence-based ~~and~~ ~~research-based behavior~~ positive behavioral practices that ~~teach and encourage~~ ~~prosocial skills and behaviors schoolwide~~ promote social and emotional learning, including trauma-sensitive programming, that are both school-wide and focused on specific students or groups of students;

(6) promote collaboration with families, community supports, and the system of health and human services; and

(7) provide professional development, as needed, to support all staff in full implementation of the multi-tiered system of support.

(c) The educational support team for each public school in the district shall be composed of staff from a variety of teaching and support positions and shall:

(1) Determine which enrolled students require additional assistance to be successful in school or to complete secondary school based on indicators set forth in guidelines developed by the Secretary, such as academic progress, attendance, behavior, or poverty. The educational support team shall pay particular attention to students during times of academic or personal transition.

(2) Identify the classroom accommodations, remedial services, and other supports ~~that have been~~ to be provided to the identified student.

(3) Assist teachers to plan for and provide services and accommodations to students in need of classroom supports or enrichment activities.

(4) Develop an individualized strategy, in collaboration with the student's parents or legal guardian whenever possible, to assist the identified student to succeed in school and to complete his or her secondary education.

(5) Maintain a written record of its actions.

~~(6) Report no less than annually to the Secretary, in a form the Secretary prescribes, on the ways in which the educational support system has addressed the needs of students who require additional assistance in order to succeed in school or to complete secondary school and on the additional financial costs of complying with this subsection (c).~~

(d) No individual entitlement or private right of action is created by this section.

(e) The Secretary shall establish guidelines for teachers and administrators in following federal laws relating to provision of services for children with disabilities and the implementation of this section. The Secretary shall develop and provide to supervisory unions information to share with parents of children suspected of having a disability that describes the differences between the tiered system of academic and behavioral supports required under this section, Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, including how and when school staff and parents of children having a suspected disability may request interventions and services under those entitlements.

(f) It is the intent of the General Assembly that a gifted and talented student shall be able to take advantage of services that an educational support team can provide. It is not the intent of the General Assembly that funding under chapter 101 of this title shall be available for a gifted and talented student unless the student has been otherwise determined to be a student for whom funding under that chapter is available.

(g) The tiered system of academic and behavioral supports required under this section shall not be used by a school district to deny a timely initial comprehensive special education evaluation for children suspected of having a disability. The Agency of Education shall adopt policies and procedures to ensure that a school district's evaluation of a child suspected of having a disability is not denied because of implementation of the tiered system of academic and behavioral supports. The policies and procedures shall include:

(1) the definition of what level of progress is sufficient for a child to stop receiving instructional services and supports through the tiered system of academic and behavioral supports;

(2) guidance on how long children are to be served in each tier; and

(3) guidance on how a child's progress is to be measured.

* * * Census-based Funding Model; Amendment of Special
Education Laws * * *

Sec. 5. 16 V.S.A. chapter 101 is amended to read:

CHAPTER 101. SPECIAL EDUCATION

Subchapter 1. General Provisions

§ 2941. POLICY AND PURPOSE

It is the policy of the State to ensure equal educational opportunities for all children in Vermont. This means that children with disabilities are entitled to receive a free appropriate public education. ~~It is further the policy of the State to pay 60 percent of the statewide costs expended by public education for children with disabilities.~~ The purpose of this chapter is to enable the Agency to ensure the provision of ~~the special educational facilities and instruction~~ education services and supports in accordance with individualized education programs necessary to meet the needs of children with disabilities.

§ 2942. DEFINITIONS

As used in this chapter

* * *

(8) A “student who requires additional support” means a student:

(A) who is on an individualized education program;

(B) who is on a section 504 plan under the Rehabilitation Act of 1973, 29 U.S.C. § 794;

(C) who is not on an individualized education program or section 504 plan but whose ability to learn is negatively impacted by a disability or by social, emotional, or behavioral needs, or whose ability to learn is negatively impacted because the student is otherwise at risk;

(D) for whom English is not the primary language; or

(E) who reads below grade level.

* * *

Subchapter 2. Aid for Special Education and Support Services

§ 2961. ~~STANDARD MAINSTREAM BLOCK GRANTS~~ CENSUS GRANT

~~(a) Each supervisory union shall be eligible to receive a standard mainstream block grant each school year. The mainstream block grant shall be equal to the supervisory union's mainstream salary standard multiplied by 60 percent.~~

~~(b) The supervisory union shall expend all such assistance for special education services or for remedial or compensatory services in accordance with its service plan as required under section 2964 of this title. It shall likewise expend, from local funds, an amount not less than 40 percent of its mainstream salary standard for special education.~~

~~(c) As used in this section:~~

~~(1) "Mainstream salary standard" means:~~

~~(A) the supervisory union's full-time equivalent staffing for special education for the preceding year multiplied by the average special education teacher salary in the State for the preceding year; plus~~

~~(B) an amount equal to the average special education administrator salary in the State for the preceding year, plus, for any supervisory union with member districts which have in the aggregate more than 1,500 average daily membership, a fraction of an additional full-time equivalent salary for a special education administrator, the numerator of which is the aggregate average daily membership of the supervisory union's member districts minus 1,500, and the denominator of which is the aggregate average daily membership of member districts in the largest supervisory union in the State minus 1,500.~~

~~(2) "Full-time equivalent staffing" means 9.75 special education teaching positions per 1,000 average daily membership.~~

~~(d) If in any fiscal year, a supervisory union in which a school is maintained does not expend an amount equal to its mainstream salary standard on special education expenditures, the supervisory union may expend the balance, including the matching funds, to provide support and remedial services pursuant to section 2902 or 2903 of this title. A supervisory union choosing to expend funds in this way shall submit a report describing the services provided and their costs with the final financial report submitted under section 2968 of this title.~~

As used in this section:

(1) “Average daily membership” shall have the same meaning as in subdivision 4001(1) of this title, except it shall exclude State-placed students.

(2) “Average daily membership of a supervisory union” means the aggregate average daily membership of the school districts that are members of the supervisory union or, for a supervisory district, the average daily membership of the supervisory district.

(3) “Long-term membership” of a supervisory union in any school year means the average of the supervisory union’s average daily membership over three school years.

(4) “Uniform base amount” means an amount determined by:

(A) dividing an amount:

(i) equal to the average State appropriation for fiscal years 2018, 2019, and 2020 for special education under 16 V.S.A. §§ 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances); and

(ii) increased by the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis; by

(B) the statewide average daily membership for prekindergarten through grade 12 for the 2019–2020 school year.

(b) The State commits to satisfying its special education maintenance of fiscal support requirement under 34 C.F.R. § 300.163(a).

(c) Each supervisory union shall receive a census grant each fiscal year to support the provision of special education services to students on an individualized education program. Supervisory unions shall use this funding and other available sources of funding to provide special education services to students in accordance with their individualized education programs as mandated under federal law. A supervisory union may use census grant funds to support the delivery of the supervisory union's comprehensive system of educational services under sections 2901 and 2902 of this title, but shall not use census grant funds in a manner that abrogates its responsibility to provide special education services to students in accordance with their individualized education programs as mandated under federal law.

(d)(1)(A) For fiscal year 2021, the amount of the census grant for a supervisory union shall be:

(i) the average amount it received for fiscal years 2017, 2018, and 2019 from the State for special education under sections 2961 (standard mainstream block grants), 2963 (special education expenditures reimbursement), and 2963a (exceptional circumstances) of this title; increased by

(ii) the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government

Consumption Expenditures and Gross Investment as reported by the
U.S. Department of Commerce, Bureau of Economic Analysis.

(B) The amount determined under subdivision (A) of this subdivision
(1) shall be divided by the supervisory union's long-term membership, to
determine the base amount of the census grant, which is the amount of the
census grant calculated on a per student basis.

(2) For fiscal year 2025 and subsequent fiscal years, the amount of the
census grant for a supervisory union shall be the uniform base amount
multiplied by the supervisory union's long-term membership.

(3) For fiscal years 2022, 2023, and 2024, the amount of the census
grant for a supervisory union shall be determined by multiplying the
supervisory union's long-term membership by a base amount established under
this subdivision. The base amounts for each supervisory union for fiscal years
2022, 2023, and 2024 shall move gradually the supervisory union's fiscal year
2021 base amount to the fiscal year 2025 uniform base amount by pro rating
the change between the supervisory union's fiscal year 2021 base amount and
the fiscal year 2025 uniform base amount over this three-fiscal-year period.

§ 2962. EXTRAORDINARY SERVICES SPECIAL EDUCATION

REIMBURSEMENT

~~(a) Except as otherwise provided in this subchapter, extraordinary services
reimbursement shall be payable, based on where the related cost is incurred, to
a town school district, city school district, union school district, unified union~~

~~school district, incorporated school district, the member school districts of an interstate school district, and unorganized town or gore or to a supervisory union.~~

~~(b) The amount of extraordinary services reimbursement provided to each district or supervisory union shall be equal to 95 percent of its extraordinary special education expenditures.~~

~~(c) As used in this subchapter, "extraordinary special education expenditures" means a school district's or supervisory union's allowable expenditures that for any one child exceed \$60,000.00 for a fiscal year. In this subsection, child means a student with disabilities who is three years of age or older in the current school year. The State Board shall define allowable expenditures that shall include any expenditures required under federal law, and any costs of mediation conducted by a mediator who is approved by the Secretary.~~

(1) As used in this section, "child" means a student with disabilities who is three years of age or older in the current school year.

(2) As used in this subchapter, "extraordinary expenditures" means a supervisory union's allowable special education expenditures that for any one child in a fiscal year exceed \$60,000.00, increased annually by the annual change in the National Income and Product Accounts (NIPA) Implicit Price Deflator for State and Local Government Consumption Expenditures and

Gross Investment as reported by the U.S. Department of Commerce, Bureau of Economic Analysis.

(3) The State Board of Education shall define allowable special education expenditures that shall include any expenditures required under federal law in order to implement fully individual education programs under the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, and any costs of mediation conducted by a mediator who is approved by the Secretary.

(b) If a supervisory union has extraordinary expenditures, it shall be eligible for extraordinary special education reimbursement (extraordinary reimbursement) as provided in this section.

(c) A supervisory union that has extraordinary expenditures in a fiscal year for any one child shall be eligible for extraordinary reimbursement equal to:

(1) an amount equal to its special education expenditures in that fiscal year for that child that exceed the extraordinary expenditures threshold amount under subdivision (a)(2) of this section (excess expenditures) multiplied by 95 percent; plus

(2) an amount equal to the lesser of:

(A) the amount of its excess expenditures; or

(B)(i) the extraordinary expenditures threshold amount under subdivision (a)(2) of this section; minus

(ii) the base amount of the census grant received by the supervisory union under subsection 2961(d) of this title for that fiscal year;
multiplied by

(iii) 60 percent.

(d) The State Board of Education shall establish by rule the administrative process for supervisory unions to submit claims for extraordinary reimbursement under this section and for the review and payment of those claims.

(e) Under section 2973 of this title, a supervisory union, in its role as the local education agency, may place a student with an individualized education program under the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33, with certain approved independent schools that accept public tuition. If the approved independent school is entitled to special education cost reimbursement under that section, it may bill the supervisory union for excess special education costs incurred by the independent school in providing special education services to that student beyond those covered by general tuition. If those costs for that student exceed the extraordinary expenditures threshold as defined in subdivision (a)(2) of this section, the supervisory union shall be entitled to extraordinary reimbursement under this section for that student as if it incurred those costs directly.

§ 2963. ~~SPECIAL EDUCATION EXPENDITURES REIMBURSEMENT~~

~~(a) Based on where the related cost is incurred, each town school district, city school district, union school district, unified union school district, incorporated school district, the member school districts of an interstate school district, and unorganized town or gore or supervisory union shall receive a special education expenditures reimbursement grant each school year.~~

~~(b) The amount of a school district's or supervisory union's special education expenditures reimbursement shall be equal to the total of its special education expenditures multiplied by the reimbursement rate for that year.~~

~~(c) As used in this subchapter:~~

~~(1) Special education expenditures are allowable expenditures for special education, as defined by rule of the State Board, less the following:~~

~~(A) revenue from federal aid for special education;~~

~~(B) mainstream service costs, as defined in subdivision 2961(c)(1) of this title;~~

~~(C) extraordinary special education expenditures, as defined in section 2962 of this title;~~

~~(D) any transportation expenses already reimbursed;~~

~~(E) special education costs for a student eligible for aid under section 2963a of this title; and~~

~~(F) other State funds used for special education costs as defined by the State Board by rule.~~

~~(2) The State Board shall define allowable expenditures under this subsection. Allowable expenditures shall include any expenditures required under federal law.~~

~~(3) "Special education expenditures reimbursement rate" means a percentage of special education expenditures that is calculated to achieve the 60 percent share required by subsection 2967(b) of this title. [Repealed.]~~

§ 2963a. EXCEPTIONAL CIRCUMSTANCES

~~(a) In lieu of reimbursement under section 2963 of this title, the Secretary shall reimburse a school district or supervisory union for 80 percent of the costs not eligible for reimbursement under section 2962 of this title for each student causing the school district or supervisory union to be eligible for extraordinary services reimbursement pursuant to that section. However, in order for a school district or supervisory union to be eligible for reimbursement under this section, the total costs of the school district or supervisory union eligible for extraordinary services reimbursement must equal or exceed 15 percent of the total costs eligible for State assistance under sections 2961, 2962, and 2963 of this title.~~

~~(b) An eligible school district or supervisory union may apply to the Secretary to receive reimbursement under this section. The Secretary shall award reimbursement to a school district or supervisory union under this section if the Secretary makes a determination that the school district or supervisory union considered all the cost effective and appropriate available~~

~~alternatives for placement and programs for students before incurring these costs. A decision of the Secretary shall be final. [Repealed.]~~

§ 2964. ~~SERVICE PLAN~~

~~(a) As a condition of receiving assistance under this subchapter, a supervisory union shall file a service plan with the Secretary annually on or before October 15. The service plan shall contain the anticipated special education expenditures for the following school year for the supervisory union and its member districts. The plan shall be in a form prescribed by the Secretary and shall include information on services planned and anticipated expenditures.~~

~~(b) If a supervisory union fails to file a service plan by October 15, the Secretary may withhold any funds due the supervisory union and its member districts under this title until a service plan is filed and accepted by the Secretary as properly completed. [Repealed.]~~

* * *

§ 2967. ~~AID PROJECTION; STATE SHARE~~

~~(a) On or before December 15, the Secretary shall publish an estimate, by each supervisory union and its member districts to the extent they anticipate reimbursable, of its anticipated special education expenditures under this chapter, of the amount of State assistance necessary to fully fund sections 2961 through 2963 of this title in for the ensuing school year.~~

~~(b) The total expenditures made by the State in any fiscal year pursuant to this chapter shall be 60 percent of the statewide total special education expenditures of funds that are not derived from federal sources. Special As used in this section, special education expenditures shall include:~~

~~(1) costs eligible for grants and reimbursements under sections 2961 through 2963a and 2962 of this title;~~

~~(2) costs for services for persons who are visually impaired; and~~

~~(3) costs for persons who are deaf and or hard of hearing;~~

~~(3)(4) costs for the interdisciplinary team program;~~

~~(4) costs for regional specialists in multiple disabilities;~~

~~(5) funds expended for training and programs to meet the needs of students with emotional or behavioral problems challenges under subsection 2969(c) of this title; and~~

~~(6) funds expended for training under subsection 2969(d) of this title.~~

§ 2968. REPORTS

~~(a) On or before November 15, March 15, and August 1 of each school year, each supervisory union and its member districts to the extent they incur reimbursable expenditures under this chapter shall file a financial report with the Secretary in a form prescribed by the Secretary. The report shall describe total expenditures for special education actually incurred during the preceding period, and shall describe revenues derived from different funding sources,~~

~~including federal assistance, State assistance under this chapter, and local effort.~~

~~(b) If a supervisory union or its member districts that have incurred reimbursable expenditures under this chapter fail to file a complete report by August 1, until the properly completed August 1 report is filed and accepted by the Secretary, the Secretary may withhold any funds due the supervisory union or school district under this title and shall subtract \$100.00 per business day from funds due to the supervisory union or school district under this title for that fiscal year. The Secretary may waive the \$100.00 penalty required under this subsection upon appeal by the supervisory union or school district. The Secretary shall establish procedures for administration of this subsection.~~

~~(c) The Secretary shall review and monitor the reports received pursuant to subsection (a) of this section as well as the service plans received pursuant to section 2964 of this title, and shall assist supervisory unions and school districts to complete and submit these documents in a timely and accurate fashion.~~

~~(d) Special education receipts and expenditures shall be included within the audits required of a supervisory union and its member districts that have incurred reimbursable expenditures under this chapter pursuant to section 323 of this title. [Repealed.]~~

§ 2969. PAYMENTS

(a)(1) ~~On or before August 15, December 15, and April 15 of each fiscal year, the State Treasurer shall withdraw from the Education Fund, based on a warrant issued by the Commissioner of Finance and Management, and shall forward to each supervisory union and its member districts to the extent they anticipate reimbursable expenditures under this chapter, the amount of State assistance estimated in accordance with State Board rules to be necessary to fund sections 2961 through 2963a of this title in the current fiscal period. The State Board shall by rule ensure that the amount of such assistance shall be adjusted to compensate for any overpayments or underpayments determined, after review and acceptance of the reports submitted under section 2968 of this title, to have been made in previous periods. Notwithstanding this subsection, failure to submit the reports within the timelines established by subsection 2968(a) of this title shall result in the withholding of any payments until the report is filed one-third of the census grant due to the supervisory union under section 2961 of this title for that fiscal year.~~

(2) On or before November 15, January 15, April 15, and August 1 of each school year, each supervisory union, to the extent it incurs extraordinary expenditures under section 2962 of this title, shall file a financial report with the Secretary in a form prescribed by the Secretary. The report shall describe total extraordinary expenditures actually incurred during the reporting period.

(3) On or before December 15, February 15, May 15, and September 15 of each school year, based on a warrant issued by the Commissioner of Finance and Management, the State Treasurer shall withdraw from the Education Fund and shall forward to each supervisory union the amount of extraordinary reimbursement incurred by the supervisory union under section 2962 of this title that is unreimbursed and determined by the Agency of Education to be payable to the supervisory union.

(b) [Repealed.]

(c) For the purpose of meeting the needs of students with emotional or behavioral problems challenges, each fiscal year the Secretary shall use for training, program development, and building school and regional capacity; up to one percent of the State funds appropriated under this subchapter.

(d) For the training of teachers, administrators, and other personnel in the identification and evaluation of; and provision of ~~education~~ educational services to children who require educational supports, each fiscal year the Secretary shall use up to 0.75 percent of the State funds appropriated under this subchapter. In order to set priorities for the use of these funds, the Secretary shall identify effective practices and areas of critical need. The Secretary may expend up to five percent of these funds for statewide training and shall distribute the remaining funds to school districts or supervisory unions.

(e) School districts and supervisory unions that apply for funds under this section must submit a plan for training that will result in lasting changes in

their school systems and give assurances that at least 50 percent of the costs of training, including in-kind costs, will be assumed by the applicant. The Secretary shall establish written procedures and criteria for the award of such funds. In addition, the Secretary may identify schools most in need of training assistance and may pay for 100 percent of the assistance to the supervisory union or school district for these schools to fund the provision of training assistance for these schools.

* * *

§ 2974. SPECIAL EDUCATION PROGRAM; FISCAL REVIEW

(a) Annually, the Secretary shall report to the State Board regarding:

(1) ~~special education expenditures by supervisory unions~~ the total amount of census grants made to supervisory unions under section 2961 of this title;

(2) ~~the rate of growth or decrease in special education costs, including the identity of high and low spending supervisory unions~~ the total amount of extraordinary special education reimbursement made to supervisory unions under section 2962 of this title;

(3) results for special education students;

(4) the availability of special education staff;

(5) the consistency of special education program implementation statewide;

(6) the status of ~~the education support systems~~ tiered systems of supports in supervisory unions; and

(7) a statewide summary of the special education student count, including:

(A) the percentage of the total average daily membership represented by special education students statewide and by supervisory union;

(B) the percentage of special education students by disability category; and

(C) the percentage of special education students served by public schools within the supervisory union, by day placement, and by residential placement.

~~(b) The Secretary's report shall include the following data for both high- and low-spending supervisory unions:~~

~~(1) each supervisory union's special education staff to child count ratios as compared to the State average, including a breakdown of ratios by staffing categories;~~

~~(2) each supervisory union's percentage of students in day programs and residential placements as compared to the State average of students in those placements and information about the categories of disabilities for the students in such placements;~~

~~(3) whether the supervisory union was in compliance with section 2901 of this title;~~

~~(4) any unusual community characteristics in each supervisory union relevant to special education placements;~~

~~(5) a review of high and low spending supervisory unions' special education student count patterns over time;~~

~~(6) a review of the supervisory union's compliance with federal and State requirements to provide a free, appropriate public education to eligible students; and~~

~~(7) any other factors affecting its spending.~~

~~(c) The Secretary shall review low spending supervisory unions to determine the reasons for their spending patterns and whether those supervisory unions used cost effective strategies appropriate to replicate in other supervisory unions.~~

~~(d) For the purposes of this section, a "high spending supervisory union" is a supervisory union that, in the previous school year, spent at least 20 percent more than the statewide average of special education eligible costs per average daily membership. Also for the purposes of this section, a "low spending supervisory union" is a supervisory union that, in the previous school year, spent no more than 80 percent of the statewide average of special education eligible costs per average daily membership.~~

~~(e) The Secretary and Agency staff shall assist the high spending supervisory unions, that have been identified in subsection (a) of this section and have not presented an explanation for their spending that is satisfactory to~~

~~the Secretary, to identify reasonable alternatives and to develop a remediation plan. Development of the remediation plan shall include an on-site review.~~

~~The supervisory union shall have two years to make progress on the remediation plan. At the conclusion of the two years or earlier, the supervisory union shall report its progress on the remediation plan.~~

~~(f) Within 30 days of receipt of the supervisory union's report of progress, the Secretary shall notify the supervisory union that its progress is either satisfactory or not satisfactory.~~

~~(1) If the supervisory union fails to make satisfactory progress, the Secretary shall notify the supervisory union that, in the ensuing school year, the Secretary shall withhold 10 percent of the supervisory union's special education expenditures reimbursement pending satisfactory compliance with the plan.~~

~~(2) If the supervisory union fails to make satisfactory progress after the first year of withholding, 10 percent shall be withheld in each subsequent year pending satisfactory compliance with the plan; provided, however, before funds are withheld in any year under this subdivision (f)(2), the supervisory union shall explain to the State Board either the reasons the supervisory union believes it made satisfactory progress on the remediation plan or the reasons it failed to do so. The State Board's decision whether to withhold funds under this subdivision shall be final.~~

~~(3) If the supervisory union makes satisfactory progress under any subdivision of this subsection, the Secretary shall release to the supervisory union any special education expenditures reimbursement withheld for the prior fiscal year only.~~

~~(g) Within 10 days after receiving the Secretary's notice under subdivision (f)(1) of this section, the supervisory union may challenge the Secretary's decision by filing a written objection to the State Board outlining the reasons the supervisory union believes it made satisfactory progress on the remediation plan. The Secretary may file a written response within 10 days after the supervisory union's objection is filed. The State Board may give the supervisory union and the Secretary an opportunity to be heard. The State Board's decision shall be final. The State shall withhold no portion of the supervisory union's reimbursement before the State Board issues its decision under this subsection.~~

~~(h) Nothing in this section shall prevent a supervisory union from seeking and receiving the technical assistance of Agency staff to reduce its special education spending.~~

§ 2975. UNUSUAL SPECIAL EDUCATION COSTS; FINANCIAL
ASSISTANCE

The Secretary may use up to two percent of the funds appropriated for allowable special education expenditures, as that term is defined in subsection 2967(b) of this title State Board of Education rules, to directly assist

supervisory unions with special education expenditures of an unusual or unexpected nature. ~~These funds shall not be used for exceptional circumstances that are funded under section 2963a of this title.~~ The Secretary's decision regarding a supervisory union's eligibility for and amount of assistance shall be final.

* * * Technical and Conforming Changes * * *

Sec. 6. 16 V.S.A. § 826 is amended to read:

§ 826. NOTICE OF TUITION RATES; SPECIAL EDUCATION CHARGES

* * *

(c) Excess special education costs incurred by a ~~district~~ supervisory union in providing special education services to a student beyond those covered by tuition may be charged to the student's supervisory union for the district of residence. However, only actual costs or actual proportionate costs attributable to the student may be charged.

* * *

Sec. 7. 16 V.S.A. § 2958 is amended to read:

§ 2958. RESIDENTIAL PLACEMENT REVIEW TEAM; RESIDENTIAL
PLACEMENTS

(a) A ~~school district~~ supervisory union shall notify the parents and the Secretary when it believes residential placement is a possible option for inclusion in a child's individualized education program.

* * *

Sec. 8. 16 V.S.A. § 4002 is amended to read:

§ 4002. PAYMENT; ALLOCATION

(a) State and federal funds appropriated for services delivered by the supervisory union and payable through the Agency shall be paid to the order of the supervisory union and administered in accordance with the plan adopted under subdivision 261a(4) of this title. Funding for special education services under section 2969 of this title shall be paid to the ~~districts and~~ supervisory unions in accordance with that section.

(b) The Secretary shall notify the superintendent or chief executive officer of each supervisory union in writing of federal or State funds disbursed to member school districts.

* * * Census-based Funding Advisory Group * * *

Sec. 9. CENSUS-BASED FUNDING ADVISORY GROUP

(a) Creation. There is created the Census-based Funding Advisory Group to consider and make recommendations on the implementation of a census-based model of funding for students who require additional support.

(b) Membership. The Advisory Group shall be composed of the following 14 members:

(1) the Executive Director of the Vermont Superintendents Association or designee;

(2) the Executive Director of the Vermont School Boards Association or designee;

(3) the Executive Director of the Vermont Council of Special Education

Administrators or designee;

(4) the Executive Director of the Vermont Principals' Association or

designee;

(5) the Executive Director of the Vermont Independent Schools

Association or designee;

(6) the Executive Director of the Vermont-National Education

Association or designee;

(7) the Secretary of Education or designee;

(8) one member selected by the Vermont-National Education

Association who is a special education teacher;

(9) one member selected by the Vermont Association of School

Business Officials;

(10) one member selected by the Vermont Legal Aid Disability Law

Project;

(11) one member who is either a family member, guardian, or education surrogate of a student requiring special education services or a person who has received special education services directly, selected by the Vermont Coalition for Disability Rights;

(12) the Commissioner of the Vermont Department of Mental Health or designee;

(13) one member who represents an approved independent school selected by the Council of Independent Schools; and

(14) one member selected by the Vermont Council of Special Education Administrators who is a special education teacher and who teaches in a school that is located in a different county than the special education teacher selected by the Vermont-National Education Association under subdivision (8) of this subsection.

(c) Powers and duties. The Advisory Group shall:

(1) advise the State Board of Education on the development of proposed rules to implement this act prior to the submission of the proposed rules to the Interagency Committee on Administrative Rules;

(2) advise the Agency of Education and supervisory unions on the implementation of this act; and

(3) recommend to the General Assembly any statutory changes it determines are necessary or advisable to meet the goals of this act, including any statutory changes necessary to align special education funding for approved independent schools with the census grant funding model for public schools as envisioned in the amendments to 16 V.S.A. chapter 101 in Sec. 5 of this act.

(d) Assistance. The Advisory Group shall have the administrative, technical, and legal assistance of the Agency of Education.

(e) Meetings.

(1) The Secretary of Education shall call the first meeting of the Advisory Group to occur on or before September 30, 2018.

(2) The Advisory Group shall select a chair from among its members at the first meeting.

(3) A majority of the membership shall constitute a quorum.

(4) The Advisory Group shall cease to exist on June 30, 2022.

(f) Reports. On or before January 15, 2019, the Advisory Group shall submit a written report to the House and Senate Committees on Education and the State Board of Education with its findings and recommendations on the development of proposed rules to implement this act and any recommendations for legislation. On or before January 15 of 2020, 2021, and 2022, the Advisory Group shall submit a supplemental written report to the House and Senate Committees on Education and the State Board of Education with a status of implementation under this act and any recommendations for legislation.

(g) Reimbursement. Members of the Advisory Group who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than eight meetings per year.

(h) Appropriation. The sum of \$5,376.00 is appropriated for fiscal year 2018 from the General Fund to the Agency of Education to provide funding for

per diem compensation and reimbursement under subsection (g) of this section.

The Agency shall include in its budget request to the General Assembly for each of fiscal years 2020, 2021, and 2022 the amount of \$5,376.00 to provide funding for per diem compensation and reimbursement under subsection (g) of this section.

* * * Census Grant Supplemental Adjustment;

Pupil Weighting Factors; Report * * *

Sec. 10. REPEAL

2017 Acts and Resolves No. 49, Sec. 35 (education weighting report) is repealed.

Sec. 11. CENSUS GRANT SUPPLEMENTAL ADJUSTMENT; PUPIL
WEIGHTING FACTORS; REPORT

(a) The Agency of Education, in consultation with the Secretary of Human Services, the Vermont Superintendents Association, the Vermont School Boards Association, and the Vermont-National Education Association, shall consider and make recommendations on the following:

(1) Whether the census grant, as defined in the amendment to 16 V.S.A. § 2961 in Sec. 5 of this act, should be increased for supervisory unions that have, in any year, relatively higher costs in supporting students who require additional support, and if so, the criteria for qualification for the adjustment and the manner in which the adjustment should be applied. In making this recommendation, the Agency of Education shall consider the report entitled

“Study of Vermont State Funding for Special Education” issued in December 2017 by the University of Vermont Department of Education and Social Services.

(2) Methods, other than the use of per pupil weighting factors, that would further the quality and equity of educational outcomes for students.

(3) The criteria used for determining weighted long-term membership of a school district under 16 V.S.A. § 4010, including each of the following:

(A) The current weighting factors and any supporting evidence or basis in the historical record for these factors.

(B) The relationship between each of the current weighting factors and the quality and equity of educational outcomes for students.

(C) Whether any of the weighting factors, including the weighting factors for students from economically deprived backgrounds and for students for whom English is not the primary language, should be modified, and if so, how the weighting factors should be modified and whether the modification would further the quality and equity of educational outcomes for students.

(D) Whether to add any weighting factors, including a school district population density factor and a factor for students who attend regional career technical education centers, and if so, why the weighting factor should be added and whether the weighting factor would further the quality and equity of educational outcomes for students. In considering whether to recommend the addition of a school district population density factor, the Agency of Education

shall consider the practices of other states, information from the National Conference of State Legislatures, and research conducted by higher education institutions working on identifying rural or urban education financing factors.

(b) On or before November 1, 2019, the Agency of Education shall submit a written report to the House and Senate Committees on Education, the House Committee on Ways and Means, and the Senate Committee on Finance with its findings and any recommendations.

(c) The Agency of Education shall have the technical assistance of the Joint Fiscal Office and the Office of Legislative Council.

(d) Notwithstanding any provision to the contrary in 16 V.S.A. § 4025, the sum of \$250,000.00 is appropriated for fiscal year 2018 from the Education Fund to the Agency of Education to provide funding for the purposes set forth in this section. The Agency of Education shall contract with a contractor with expertise in Vermont's education funding system to assist the Agency in producing the study required by this section. Any application of funds for the purpose of administrative overhead shall be capped at ten percent of the total sum allocated pursuant to this subsection.

* * * Training and Technical Assistance on the Delivery of Special
Education Services * * *

Sec. 12. TRAINING AND TECHNICAL ASSISTANCE ON THE
DELIVERY OF SPECIAL EDUCATION SERVICES

(a) The Agency of Education shall, for the 2018–2019, 2019–2020, and 2020–2021 school years, assist supervisory unions to expand and improve their delivery of services to students who require additional supports in accordance with the report entitled “Expanding and Strengthening Best-Practice Supports for Students who Struggle” delivered to the Agency of Education in November 2017 from the District Management Group. This assistance shall include the training of teachers and staff and technical assistance with the goal of embedding the following best practices for the delivery of special education services:

- (1) ensuring core instruction meets most needs of most students;
- (2) providing additional instructional time outside core subjects to students who require additional support, rather than providing interventions instead of core instruction;
- (3) ensuring students who require additional support receive all instruction from highly skilled teachers;
- (4) creating or strengthening a systems-wide approach to supporting positive student behaviors based on expert support; and

(5) providing specialized instruction from skilled and trained experts to students with more intensive needs.

(b) The sum of \$200,000.00 is appropriated from federal funds that are available under the Individuals with Disabilities Education Act for fiscal year 2019 to the Agency of Education, which the Agency shall administer in accordance with this section. The Agency shall include in its budget request to the General Assembly for each of fiscal years 2020 and 2021 the amount of \$200,000.00 from federal funds that are available under the Individuals with Disabilities Education Act for administration in accordance with this section.

(c) The Agency of Education shall present to the General Assembly on or before December 15 in 2019, 2020, and 2021 a report describing what changes supervisory unions have made to expand and improve their delivery of services to students who require additional supports and describing the associated delivery challenges. The Agency shall share each report with all supervisory unions.

* * * Agency of Education; Staffing * * *

Sec. 13. AGENCY OF EDUCATION; STAFFING

The following positions are created in the Agency of Education: one full-time, exempt legal counsel specializing in special education law and two full-time, classified positions specializing in effective instruction for students who require additional support. There is appropriated to the Agency of Education

from the General Fund for fiscal year 2019 the amount of \$325,000.00 for salaries, benefits, and operating expenses.

* * * Extraordinary Services Reimbursement * * *

Sec. 14. 16 V.S.A. § 2962 is amended to read:

§ 2962. EXTRAORDINARY SERVICES REIMBURSEMENT

(a) Except as otherwise provided in this subchapter, extraordinary services reimbursement shall be payable, based on where the related cost is incurred, to a town school district, city school district, union school district, unified union school district, incorporated school district, the member school districts of an interstate school district, ~~and an~~ unorganized town or gore or to a supervisory union.

(b) The amount of extraordinary services reimbursement provided to each district or supervisory union shall be equal to ~~90~~ 95 percent of its extraordinary special education expenditures.

(c) As used in this subchapter, “extraordinary special education expenditures” means a school district’s or supervisory union’s allowable expenditures that for any one child exceed ~~\$50,000.00~~ \$60,000.00 for a fiscal year. In this subsection, child means a student with disabilities who is three years of age or older in the current school year. The State Board shall define allowable expenditures that shall include any expenditures required under federal law, and any costs of mediation conducted by a mediator who is approved by the Secretary.

Sec. 15. 16 V.S.A. § 4001 is amended to read:

§ 4001. DEFINITIONS

As used in this chapter:

* * *

(6) “Education spending” means the amount of the school district budget, any assessment for a joint contract school, career technical center payments made on behalf of the district under subsection 1561(b) of this title, and any amount added to pay a deficit pursuant to 24 V.S.A. § 1523(b) that is paid for by the school district, but excluding any portion of the school budget paid for from any other sources such as endowments, parental ~~fund-raising~~ fundraising, federal funds, nongovernmental grants, or other State funds such as special education funds paid under chapter 101 of this title.

(A) [Repealed.]

(B) For purposes of calculating excess spending pursuant to 32 V.S.A. § 5401(12), “education spending” shall not include:

* * *

(v) Spending attributable to the district’s share of special education spending ~~in excess of \$50,000.00~~ that is not reimbursed as an extraordinary reimbursement under section 2962 of this title for any ~~one~~ student in the fiscal year occurring two years prior.

* * *

* * * Rulemaking * * *

Sec. 16. RULEMAKING

The Agency of Education shall recommend to the State Board proposed rules that are necessary to implement this act and, on or before November 1, 2019, the State Board of Education shall adopt rules that are necessary to implement this act. The State Board and the Agency of Education shall consult with the Census-based Funding Advisory Group established under Sec. 9 of this act in developing the State Board rules. The State Board rules shall include rules that establish processes for reporting, monitoring, and evaluation designed to ensure:

(1) the achievement of the goal under this act of enhancing the effectiveness, availability, and equity of services provided to all students who require additional support in Vermont's school districts; and

(2) that supervisory unions are complying with the Individuals with Disabilities Education Act, 20 U.S.C. chapter 33.

* * * Transition * * *

Sec. 17. TRANSITION

(a) Notwithstanding the requirement under 16 V.S.A. § 2964 for a supervisory union to submit a service plan to the Secretary of Education, a supervisory union shall not be required to submit a service plan for fiscal year 2021.

(b) On or before November 1, 2019, a supervisory union shall submit to the Secretary such information as required by the Secretary to estimate the supervisory union's projected fiscal year 2021 extraordinary special education reimbursement under Sec. 5 of this act.

(c) The Agency of Education shall assist supervisory unions as they transition to the census-based funding model in satisfying their maintenance of effort requirements under federal law.

Sec. 18. TRANSITION FOR ALLOWABLE SPECIAL EDUCATION

COSTS

(a) Allowable special education costs shall include salaries and benefits of licensed special education teachers, including vocational special needs teachers and instructional aides for the time they carry out special education responsibilities.

(1) The allowable cost that a local education agency may claim includes a school period or service block during which the staff member identified in this subsection is providing special education services to a group of eight or fewer students, and not less than 25 percent of the students are receiving the special education services, in accordance with their individualized education programs.

(2) In addition to the time for carrying out special education responsibilities, a local education agency may claim up to 20 percent of special education staff members' time, if that staff spends the additional time

performing consultation to assist with the development of and providing instructional services required by:

(A) a plan pursuant to Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; or

(B) a plan for students who require additional assistance in order to succeed in the general education environment.

(b) This section is repealed on July 1, 2020.

* * * Approved Independent Schools * * *

Sec. 19. FINDINGS AND GOALS

(a) The General Assembly created the Approved Independent Schools Study Committee in 2017 Acts and Resolves No. 49 to consider and make recommendations on the criteria to be used by the State Board of Education for designation of an “approved” independent school. The Committee was specifically charged to consider and make recommendations on:

(1) the school’s enrollment policy and any limitation on a student’s ability to enroll;

(2) how the school should be required to deliver special education services and which categories of these services; and

(3) the scope and nature of financial information and special education information that should be required to be reported by the school to the State Board or Agency of Education.

(b) The General Assembly in Act 49 directed the State Board of Education to suspend further development of the amendments to its rules for approval of independent schools pending receipt of the report of the Committee.

(c) The Committee issued its report in December 2017, noting that, while it was unable to reach consensus on specific legislative language, it did agree unanimously that Vermont students with disabilities should be free to attend the schools that they, their parents, and their local education agency deem appropriate to them.

(d) This act completes that work and provides the direction necessary for the State Board of Education to develop further the amendments to its rules for approval of independent schools.

Sec. 20. 16 V.S.A. § 166 is amended to read:

§ 166. APPROVED AND RECOGNIZED INDEPENDENT SCHOOLS

* * *

(b) Approved independent schools. On application, the State Board shall approve an independent school that offers elementary or secondary education if it finds, after opportunity for hearing, that the school provides a minimum course of study pursuant to section 906 of this title and that it substantially complies with the Board's rules for approved independent schools. Except as provided in subdivision (6) of this subsection, the Board's rules must at minimum require that the school ~~has~~ have the resources required to meet its stated objectives, including financial capacity, faculty who are qualified by

training and experience in the areas in which they are assigned, and physical facilities and special services that are in accordance with any State or federal law or regulation. Approval may be granted without State Board evaluation in the case of any school accredited by a private, State, or regional agency recognized by the State Board for accrediting purposes.

* * *

(5) The State Board may ~~revoke or~~ suspend, or impose conditions upon the approval of an approved independent school, after having provided an opportunity for a hearing, for substantial failure to comply with the minimum course of study, for failure to demonstrate that the school has the resources required to meet its stated objectives, for failure to comply with statutory requirements or the Board's rules for approved independent schools, or for failure to report under subdivision (4) of this subsection (b). Upon that revocation or suspension, students required to attend school who are enrolled in that school shall become truant unless they enroll in a public school, an approved or recognized independent school, or a home study program.

* * *

(8)(A) If an approved independent school experiences any of the following financial reporting events during the period of its approved status, the school shall notify the Secretary of Education within five days after its knowledge of the event unless the failure is de minimis:

(i) the school's failure to file its federal or State tax returns when due, after permissible extension periods have been taken into account;

(ii) the school's failure to meet its payroll obligations as they are due or to pay federal or State payroll tax obligations as they are due;

(iii) the school's failure to maintain required retirement contributions;

(iv) the school's use of designated funds for nondesignated purposes;

(v) the school's inability to fully comply with the financial terms of its secured installment debt obligations over a period of two consecutive months, including the school's failure to make interest or principal payments as they are due or to maintain any required financial ratios;

(vi) the withdrawal or conditioning of the school's accreditation on financial grounds by a private, State, or regional agency recognized by the State Board for accrediting purposes; or

(vii) the school's insolvency, as defined in 9 V.S.A. § 2286(a).

(B)(i) If the State Board reasonably believes that an approved independent school lacks financial capacity to meet its stated objectives during the period of its approved status, then the State Board shall notify the school in writing of the reasons for this belief and permit the school a reasonable opportunity to respond.

(ii) If the State Board, after having provided the school a reasonable opportunity to respond, does not find that the school has satisfactorily responded or demonstrated its financial capacity, the State Board may establish a review team, that, with the consent of the school, includes a member of the Council of Independent Schools, to:

(I) conduct a school visit to assess the school's financial capacity;

(II) obtain from the school such financial documentation as the review team requires to perform its assessment; and

(III) submit a report of its findings and recommendations to the State Board.

(iii) If the State Board concludes that an approved independent school lacks financial capacity to meet its stated objectives during the period of its approved status, the State Board may take any action that is authorized by this section.

(iv) In considering whether an independent school lacks financial capacity to meet its stated objectives during the period of its approved status and what actions the State Board should take if it makes this finding, the State Board may consult with, and draw on the analytical resources of, the Vermont Department of Financial Regulation.

(C) Information provided by an independent school under this subsection that is not already in the public domain is exempt from public

inspection and copying under the Public Records Act and shall be kept confidential.

* * *

Sec. 20a. 16 V.S.A. § 166 is amended to read:

§ 166. APPROVED AND RECOGNIZED INDEPENDENT SCHOOLS

* * *

(b) Approved independent schools. On application, the State Board shall approve an independent school that offers elementary or secondary education if it finds, after opportunity for hearing, that the school provides a minimum course of study pursuant to section 906 of this title and that it substantially complies with all statutory requirements for approved independent schools and the Board's rules for approved independent schools. An independent school that intends to accept public tuition shall be approved by the State Board only on the condition that the school agrees, notwithstanding any provision of law to the contrary, to enroll any student who requires special education services and who is placed in or referred to the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education program team or by the local education agency; provided, however, that this requirement shall not apply to an independent school that limits enrollment to students who are on an individualized education program or a 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 the local education agency and the school.

Except as provided in subdivision (6) of this subsection, the Board's rules must at minimum require that the school have the resources required to meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and special services that are in accordance with any State or federal law or regulation. Approval may be granted without State Board evaluation in the case of any school accredited by a private, State, or regional agency recognized by the State Board for accrediting purposes, provided that the State Board shall determine that the school complies with all student enrollment provisions required by law.

* * *

Sec. 21. 16 V.S.A. § 2973 is amended to read:

§ 2973. ~~INDEPENDENT SCHOOL TUITION RATES~~ SCHOOLS

(a)(1) Notwithstanding any provision of law to the contrary, an approved independent school that accepts public tuition shall enroll any student with an individualized education program who requires special education services and who is placed in the approved independent school as an appropriate placement and least restrictive environment for the student by the student's individualized education program team or by the local education agency (LEA); provided, however, that this requirement shall not apply to an independent school that limits enrollment to students who are on an individualized education program

or a 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 the LEA and the school.

(2) In placing a student with an independent school under subdivision (1) of this subsection, the student's individualized education program team and the LEA shall comply with all applicable federal and State requirements.

(3) An approved independent school is not required to demonstrate that it has the resources to serve every category of special education as defined under State Board of Education rules in order to be approved or retain its approval to receive public funding for general tuition.

(4) The terms "special education services," "LEA," and "individualized education program" or "IEP" as used in this section shall have the same meanings as defined by State Board rules.

(b)(1) The Secretary of Education shall establish minimum standards of services for students receiving special education services in independent schools in Vermont; shall set, after consultation with independent schools in Vermont, the maximum rates to be paid by the Agency and school districts for tuition, room, and board based on the level of services; and may advise independent schools as to the need for certain special education services in Vermont.

(2)(A) The Secretary of Education shall set, after consultation with independent schools in Vermont, and based on the level of services provided

by the schools, the maximum rates to be paid by the Agency and supervisory unions or school districts for tuition, room, and board for residential placement of students who require special education services. The amount charged by an independent school for tuition shall reflect the school's actual or anticipated costs of providing special education services to the student and shall not exceed the maximum rates set by the Secretary, provided that the Secretary may permit charges in excess of these maximum rates where the Secretary deems warranted.

(B)(i) An approved independent school that enrolls a student under subdivision (a)(1) of this section may bill the responsible LEA for excess special education costs incurred by the independent school in providing special education services beyond those covered by general tuition. Reimbursement of these excess special education costs shall be based on the direct-cost rates approved by the Secretary for services actually provided to the student consistent with the Agency of Education Technical Manual for special education cost accounting. The Agency of Education shall publish specific elements that must be included as part of an independent school's invoice for excess special education costs, and these elements shall be included in the written agreement required under subdivision (c)(2) of this section.

(ii) In establishing the direct-cost rates for reimbursement under this subdivision (B), the Secretary shall apply the principle of treating an approved independent school and a public school with parity in the amount of

federal, State, and local contributions to cover the costs of providing special education services.

(iii) An approved independent school that enrolls a student under subdivision (a)(1) of this section shall provide such documentation to the Secretary as the Secretary deems necessary in order to ensure that amounts payable under this subdivision (B) to the school are reasonable in relation to the special education services provided by the school. The Secretary may withhold, or direct an LEA to withhold, payment under this subdivision pending the Secretary's receipt of required documentation under this subdivision, or may withhold, or direct an LEA to withhold, an amount determined by the Secretary as not reasonable in relation to the special education services provided by the school.

(C)(i) The Secretary shall set, after consultation with independent schools in Vermont, the maximum tuition rates to be paid by the Agency and supervisory unions or school districts to independent schools that limit enrollment to students who are on an IEP or a 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 the LEA and the school. The maximum tuition rates shall be based on the level of services provided by the school.

(ii) The tuition rates established by the Secretary under this subdivision (C) shall be no more than the costs that are reasonably related to the level of services provided by the school and shall be set forth on a form

prescribed for that purpose by the Secretary of Education. The Secretary shall determine the relationship between costs and the level of services by using generally accepted accounting principles, such as those set forth in the Handbook (II) for Financial Accounting of Vermont School Systems.

(iii) After the Secretary approves a tuition rate for an independent school under this subdivision (C), the school shall not exceed that tuition rate until such time as a new tuition rate is approved by the Secretary.

(c)(1) In order to be approved as an independent school eligible to receive State funding under subdivision (a)(1) of this section, the school shall demonstrate the ability to serve students with disabilities by:

(A) demonstrating an understanding of special education requirements, including the:

(i) provision of a free and appropriate public education in accordance with federal and State law;

(ii) provision of education in the least restrictive environment in accordance with federal and State law;

(iii) characteristics and educational needs associated with any of the categories of disability or suspected disability under federal and State law; and

(iv) 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:

(i) the development of, and any changes to, the IEP;

(ii) services provided under the IEP and recommendations for a change in the services provided;

(iii) the student's progress;

(iv) the maintenance of the student's enrollment in the independent school; and

(v) the identification of students with suspected disabilities; and

(E) committing to participate in dispute resolution as provided under federal and State law.

(2) An approved independent school that enrolls a student requiring special education services who is placed with the school under subdivision (a)(1) of this section:

(A) shall enter into a written agreement with the LEA committing to the requirements under subdivision (1) of this subsection (c); and

(B) shall ensure that qualified school personnel attend planning meetings and IEP meetings for the student.

(d)(1) If a student is placed with an approved independent school under subsection (a) of this section and either the LEA and the school each certifies, or the hearing officer under subdivision (3) of this subsection certifies, to the Secretary of Education that the school is unable to provide required IEP services due to its inability to retain qualified staff, then the LEA shall make another placement that satisfies the federal requirements to provide the student with a free and appropriate public education in the least restrictive environment.

(2) If the conditions in subdivision (1) of this subsection are satisfied:

(A) the approved independent school shall not be subject to any disciplinary action or the revocation of its approved status by the State Board of Education due to its failure to enroll the student; and

(B) no private right of action shall be created on the part of the student or his or her family members, or any other private party, to:

(i) require the LEA to place the student with the approved independent school or the school to enroll the student; or

(ii) hold the LEA or the approved independent school responsible for monetary damages due to the failure of the school to enroll the student or the necessity for the LEA to make an alternative placement.

(3) If the LEA and approved independent school do not agree on whether the school is unable to retain qualified staff under subdivision (1) of this subsection, then the LEA and the school shall jointly contract with a

hearing officer to conduct a hearing with the parties and make a determination, which shall be final. The cost for the hearing officer shall be split evenly between the two parties.

(b)(e) Neither a school districts district nor any State agency shall pay rates for tuition, room, and board; for students receiving special education in independent schools outside Vermont that are in excess of allowable costs approved by the authorized body in the state in which the independent school is located, except in exceptional circumstances or for a child who needs exceptional services, as approved by the Secretary.

(e)(f) The State Board is authorized to enter into interstate compacts with other states to regulate rates for tuition, room, and board for students receiving special education in independent schools.

Sec. 22. SPECIAL EDUCATION ENDORSEMENT; APPROVAL FOR
SPECIAL EDUCATION CATEGORIES

(a) On or before November 1, 2019, the Vermont Standards Board for Professional Educators shall review its special educator endorsement requirements and initiate rulemaking to update its rules to ensure that these requirements do not serve as a barrier to satisfying statewide demands for licensed special educators.

(b) On or before November 1, 2020, the State Board of Education shall review its rules for approving independent schools in specific special education

categories and initiate rulemaking to update its rules to simplify and expedite the approval process.

* * * Effective Dates * * *

Sec. 23. EFFECTIVE DATES

(a) The following sections shall take effect on July 1, 2019:

(1) Sec. 14 (extraordinary services reimbursement);

(2) Sec. 15 (16 V.S.A. § 4001); and

(3) Sec. 17 (transition).

(b) Sec. 5 (16 V.S.A. chapter 101) shall take effect on July 1, 2020.

(c) Secs. 20a-21 (approved independent schools) shall take effect on July 1, 2022.

(d) This section and the remaining sections shall take effect on passage.

Date Governor signed bill: May 25, 2018

No. 1. An act relating to ethnic and social equity studies standards for public schools.

(H.3)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. ETHNIC AND SOCIAL EQUITY STANDARDS ADVISORY

WORKING GROUP

(a) Findings.

(1) In 1999, the Vermont Advisory Committee to the U.S. Commission on Civil Rights published a report titled Racial Harassment in Vermont Public Schools and described the state of racism in public schools. The Committee held various hearings and received reports from stakeholders and concluded that “racial harassment” appeared “pervasive in and around the State’s public schools,” and observed that “the elimination of this harassment” was “not a priority among school administrators, school boards, elected officials, and State agencies charged with civil rights enforcement.”

(2) In 2003, the Commission released a follow-up report concluding that, although some positive efforts had been made since the original report was published, the problem persisted. One of the many problems highlighted at that time was that some curriculum materials and lesson plans promoted racial stereotypes. One of the conclusions was that there was a need for a bias-free curriculum.

(3) In December 2017, the Act 54 report on Racial Disparities in State Systems, issued by the Attorney General and Human Rights Commission Task

Force, was released. According to the report, education is one of the five State systems in which racial disparities persist and need to be addressed. The Attorney General and Human Rights Commission held three stakeholder meetings and found “a surprising amount of coalescence around the most important issues” and “the primary over-arching theme was that we will be able to reduce racial disparities by changing the underlying culture of our state with regard to race.” One of the main suggestions for accomplishing this was to “teach children from an integrated curriculum that fairly represents both the contributions of People of Color (as well as indigenous people, women, people with disabilities, etc.), while fairly and accurately representing our history of oppression of these groups.” The other suggestions were to educate State employees about implicit bias, white privilege, white fragility, and white supremacy and increase the representation of people of color in the State and school labor forces by focusing on recruitment, hiring, and retention, as well as promotion of people of color into positions of authority and responsibility on boards and commissions.

(4) According to the U.S. Department of Justice report on hate crimes in Vermont in 2017, of the 35 hate crimes reported in 2017, 51 percent were based on a motivation involving racial bias, 23 percent were based on a motivation involving sexual orientation bias, 17 percent were based on a motivation involving religious bias, and 9 percent were based on a motivation involving disability bias.

(5) Acts of harassment and discrimination based on religious affiliation, including but not limited to anti-Semitism and Islamophobia, have been reported in recent Vermont news reports.

(6) Hate symbols have in recent years appeared with disturbing frequency at schools, in public spaces, places of worship, and places of business.

(7) The harassment of marginalized groups, and the lack of understanding of people in power about the magnitude of the systemic impacts of harassment and bias, damage the whole community.

(b) Definitions. As used in this act:

(1) "Ethnic groups" means:

(A) nondominant racial and ethnic groups in the United States, including people who are Abenaki, people from other indigenous groups, people of African, Asian, Pacific Island, Chicanx, Latinx, or Middle Eastern descent; and

(B) groups that have been historically subject to persecution or genocide.

(2) "Ethnic studies" means the instruction of students in prekindergarten through grade 12 in the historical contributions and perspectives of ethnic groups and social groups.

(3) “Social groups” means women and girls, people with disabilities, immigrants, refugees, and individuals who are lesbian, gay, bisexual, transgender, queer, questioning, intersex, asexual, or nonbinary.

(c) Creation and composition. The Ethnic and Social Equity Standards Advisory Working Group is established. The Working Group shall comprise the following 20 members:

(1) 10 members who are members of, and represent the interests of, ethnic groups and social groups, two of whom shall be high school students;

(2) a Vermont-based, college-level faculty expert in ethnic studies;

(3) the Secretary of Education or designee;

(4) the Executive Director of the Vermont-National Education Association or designee;

(5) the Executive Director of Racial Equity or designee;

(6) the Executive Director of the Vermont School Boards Association or designee;

(7) a representative for the Vermont Principals’ Association with expertise in the development of school curriculum;

(8) a representative for the Vermont Curriculum Leaders Association;

(9) the Executive Director of the Vermont Superintendents Association or designee;

(10) the Executive Director of the Vermont Independent Schools Association or designee; and

(11) the Executive Director of the Vermont Human Rights Commission or designee.

(d) Appointment and operation.

(1) The Vermont Coalition for Ethnic and Social Equity in Schools (Coalition) shall appoint the 10 members who represent ethnic groups and social groups and the member identified under subdivision (c)(2) of this section. Appointments of members to fill vacancies to these positions shall be made by the Coalition.

(2) As a group, the Working Group shall represent the breadth of geographic areas within the State and shall have experience in the areas of ethnic standards or studies, social justice, inclusivity, and advocacy for the groups they represent.

(3)(A) The Secretary of Education or designee shall call the first meeting of the Working Group to occur on or before September 1, 2019.

(B) The Working Group shall select a chair from among its members at the first meeting.

(C) A majority of the membership shall constitute a quorum.

(D) The Working Group shall cease to exist on July 1, 2022.

(E) The Working Group shall have the assistance of the Agency of Education for the purposes of scheduling meetings and processing compensation and reimbursement pursuant to subsection (e) of this section.

(e) Compensation and reimbursement. Members of the Working Group who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for their attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 for not more than ten meetings per year. These payments shall be made from monies appropriated to the Agency of Education.

(f) Appropriation. The sum of \$15,860.00 is appropriated to the Agency of Education from the General Fund for fiscal year 2020 for the per diem compensation and expense reimbursements authorized by subsection (e) of this section to be paid to the members of the Ethnic and Social Equity Standards Advisory Working Group. The Agency shall include in its budget request to the General Assembly for fiscal years 2021 and 2022 the amount of \$15,860.00 for the per diem compensation and expense reimbursements authorized by subsection (e) of this section to be paid to members of the Working Group.

(g) Duties of the Working Group.

(1) The Working Group shall review standards for student performance adopted by the State Board of Education under 16 V.S.A. § 164(9) and, on or before June 30, 2021, recommend to the State Board updates and additional standards to recognize fully the history, contributions, and perspectives of ethnic groups and social groups. These recommended additional standards shall be designed to:

- (A) increase cultural competency of students in prekindergarten through grade 12;
- (B) increase attention to the history, contribution, and perspectives of ethnic groups and social groups;
- (C) promote critical thinking regarding the history, contributions, and perspectives of ethnic groups and social groups;
- (D) commit the school to eradicating any racial bias in its curriculum;
- (E) provide, across its curriculum, content and methods that enable students to explore safely questions of identity, race equality, and racism; and
- (F) ensure that the basic curriculum and extracurricular programs are welcoming to all students and take into account parental concerns about religion or culture.

(2) The Working Group may review State statutes, State Board rules, and school district and supervisory union policies that concern or impact standards for student performance or curriculum used in schools. The State Board may recommend to the General Assembly proposed statutory changes with the following goals:

- (A) ensuring that schools:
 - (i) promote critical thinking regarding the history, contribution, and perspectives of ethnic groups and social groups;

(ii) include content and related instructional materials and methods that enable students to explore safely questions of identity and membership in ethnic groups and social groups, race equality, and racism; and

(iii) facilitate a welcoming environment for all students while taking into account parental concerns about bias or exclusion of ethnic groups or social groups; and

(B) ensuring engagement opportunities that provide families a welcoming means of raising any concern about their child's experience as it bears on race or ethnic or social group identity at school.

(3) The Working Group shall include in its report to the General Assembly under subdivisions (h)(2) and (3) of this section any statute, State Board rule, or school district or supervisory union policy that it has identified as needing review or amendment in order to:

(A) promote an overarching focus on preparing all students to participate effectively in an increasingly racially, culturally, and socially diverse Vermont and in global communities;

(B) ensure every student is in a safe, secure, and welcoming learning and social environment in which bias, whether implicit or explicit, toward others based on their membership in ethnic or social groups is acknowledged and addressed appropriately;

(C) challenge racist, sexist, or ableist bias, or bias based on gender or socioeconomic status, using principles aligned with restorative practice;

(D) specify prohibited conduct as it relates to racism, sexism, ableism, and other ethnic and social biases and refers to the process through which alleged misconduct will be addressed, including disciplinary action as appropriate;

(E) establish disciplinary responses to racial or ethnic and social group incidents that include the utilization of restorative practices where appropriate; and

(F) ensure that the school diversifies its workforce and provides its personnel training in how best to address bias incidents.

(h) Reports.

(1) The Working Group shall, on or before March 1, 2020, submit a report to the General Assembly that includes:

(A) the membership of the Working Group and its meeting schedule;

(B) its plan to accomplish the work described in subdivision (g)(1) of this section; and

(C) its plan to accomplish the work described in subdivisions (g)(2) and (3) of this section.

(2) The Working Group shall, on or before December 15, 2020, submit a report to the General Assembly that includes:

(A) the membership of the Working Group and its meeting schedule;

(B) any recommended statutory changes under subdivisions (g)(2) and (3) of this section;

(C) its findings from its review of State Board rules and school district and supervisory union policies under subdivisions (g)(2) and (3) of this section; and

(D) any recommendations for training and appropriations to support implementation of the recommended statutory changes.

(3) The Working Group shall, on or before July 1, 2022, submit a report to the General Assembly that includes:

(A) any further recommended statutory changes under subdivisions (g)(2) and (3) of this section;

(B) any further findings from its review of State Board rules and school district and supervisory union policies under subdivisions (g)(2) and (3) of this section; and

(C) any recommendations for training and appropriations to support implementation of the recommended changes.

(i) Duties of the State Board of Education. The Board of Education shall, on or before June 30, 2022, consider adopting ethnic and social equity studies standards into standards for student performance adopted by the State Board under 16 V.S.A. § 164(9) for students in prekindergarten through grade 12, taking into account the report submitted by the Working Group under subdivision (g)(1) of this section.

Sec. 2. 16 V.S.A. § 164 is amended to read:

§ 164. STATE BOARD; GENERAL POWERS AND DUTIES

The State Board shall evaluate education policy proposals, including timely evaluation of policies presented by the Governor and Secretary; engage local school board members and the broader education community; and establish and advance education policy for the State of Vermont. In addition to other specified duties, the Board shall:

* * *

(17) Report annually on the condition of education statewide and on a ~~school-by-school~~ supervisory union and school district basis. The report shall include information on attainment of standards for student performance adopted under subdivision (9) of this section, number and types of complaints of hazing, harassment, or bullying made pursuant to chapter 9, subchapter 5 of this title and responses to the complaints, financial resources and expenditures, and community social indicators. The report shall be organized and presented in a way that is easily understandable by the general public and that enables each school, school district, and supervisory union to determine its strengths and weaknesses. To the extent consistent with State and federal privacy laws and regulations, data on hazing, harassment, or bullying incidents shall be disaggregated by incident type, including disaggregation by ethnic groups, racial groups, religious groups, gender, sexual orientation, gender identity, disability status, and English language learner status. The Secretary shall use

the information in the report to determine whether students in each school, school district, and supervisory union are provided educational opportunities substantially equal to those provided in other schools, school districts, and supervisory unions pursuant to subsection 165(b) of this title.

* * *

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Date Governor signed bill: March 29, 2019



Proposed Rules Postings

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Deadline For Public Comment

Deadline: Dec 05, 2023

The deadline for public comment has expired. Contact the agency or primary contact person listed below for assistance.

Rule Details

Rule Number:	23P037
Title:	Independent School Program Approval Rules.
Type:	Standard
Status:	Final Proposed
Agency:	Board of Education
Legal Authority:	16 V.S.A. §§ 164(14), 166(b); 2019 Act No. 1 Sec.1.
Summary:	The proposed amendments to the Independent School Program Approval Rules are designed to incorporate the principles and goals of Act No.1 (2019), seeking to ensure that schools (1) promote critical thinking regarding the history, contributions, and perspectives of ethnic and social groups; (2)

include instructional materials and methods to enable students to explore and understand questions of identity and membership in ethnic and social groups, race equality, and racism; and (3) facilitate welcoming environments for all students without bias or exclusion. These amendments also establish a method for recognizing school accrediting agencies, create an annual compliance assurance requirement for approved schools, require a method for evaluating whether an approved school is compliant with nondiscrimination requirements, clarify the process for accredited and non-accredited schools to apply and become approved, and reorganize the order of the rules for clarity and to align sequentially with the steps for independent school approval and reapproval.

Persons Affected: The Vermont Agency of Education Staff; Vermont State Board of Education; Independent Schools in Vermont seeking state approval; Governance Boards, administrators, parents, students, teachers, and staff of Approved Independent Schools; Local Education Agencies; Advocacy Groups;

Economic Impact: The proposed changes amend the current 2200 Rule Series to align with the statutory intent of Act 1, develop a method for recognizing accrediting agencies, and implement an annual compliance assurance process. As a result, approved independent schools may have to invest in new or updated curriculum and in additional support or professional development for educators. The Agency of Education is assigned duties related to: (1) developing, tracking, and reviewing annual compliance assurance forms, (2) developing a standard method for assessing a school's compliance with nondiscrimination requirements, and (3) assisting the State Board in maintaining a public list of recognized accrediting agencies. The State Board anticipates that the overall economic impact of the rules on taxpayers to be minimal.

Posting date: Oct 18,2023

Hearing Information

Information for Hearing # 1

Hearing date: 11-17-2023 11:30 AM [ADD TO YOUR CALENDAR](#)

Location: Virtual via MS Teams: <https://www.microsoft.com/en-us/microsoft-teams/join-a-meeting>

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 Call in (audio only) +1 802-828-7667,,160796028#
 City: United States, Montpelier Phone Conerence ID: 160
 796 028#;
 State: VT
 Zip: n/a
 Hearing Notes:

Information for Hearing # 2

Hearing date: 11-21-2023 4:00 PM **ADD TO YOUR CALENDAR**
 Location: Virtual via MS Teams: https://www.microsoft.com/
 en-us/microsoft-teams/join-a-meeting
 Address: Meeting ID: 251 512 953 600 Passcode: 5h53qE
 Call in (audio only) +1 802-828-7667,,216027574#
 City: United States, Montpelier Phone Conerence ID: 216
 027 574#;
 State: VT
 Zip: n/a
 Hearing Notes:

Information for Hearing # 3

Hearing date: 11-27-2023 6:30 PM **ADD TO YOUR CALENDAR**
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 Address: Meeting ID: 263 195 071 921 Passcode: XLqxpA
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 City: United States, Montpelier Phone Conerence ID: 164
 349 440#.
 State: VT
 Zip: n/a
 Hearing Notes:

Contact Information

Information for Primary Contact

**PRIMARY CONTACT PERSON - A PERSON WHO IS ABLE TO ANSWER QUE;
THE CONTENT OF THE RULE.**

Level: Primary
 Name: Jennifer Deck Samuelson
 Agency: Board of Education
 Address: 1 National Life Drive Davis 5
 City: Montpelier
 State: VT

Zip: 05602-2501
Telephone: 802-828-0047
Fax: 802-828-6430
Email: SBE.PublicComment@vermont.gov

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Information for Secondary Contact

SECONDARY CONTACT PERSON - A SPECIFIC PERSON FROM WHOM COPI MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS S FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON.

Level: Secondary
Name: Sarah Buxton, Special Counsel
Agency: Board of Education
Address: 44 East State Street
City: Montpelier
State: VT
Zip: 05602
Telephone: 802-223-1112
Fax: 802-223-6225
Email: sarah@tarrantgillies.com

[SEND A COMMENT](#)

Keyword Information

Keywords:

- Independent School
- Accrediting Agency
- Education
- Rule Series 2200
- Equity
- Ethnic Studies
- Ethnic Group
- 2019 Act 1
- Social Group
- Schools
- Compliance Assurance

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The Caledonian Record Julie Poutré (adv@caledonian-record.com)	Tel: 748-8121 FAX: 748-1613
Times Argus / Rutland Herald Melody Hudson (classified.ads@rutlandherald.com) Elizabeth Marrier (elizabeth.marrier@rutlandherald.com)	Tel: 802-747-6121 ext 2238 FAX: 802-776-5600
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Herald of Randolph (ads@ourherald.com)	Tel: 728-3232 FAX: 728-9275 Attn: Brandi Comette
Newport Daily Express (jlafoe@newportvermontdailyexpress.com)	Tel: 334-6568 FAX: 334-6891 Attn: Jon Lafoe
News & Citizen (mike@stowereporter.com) Irene Nuzzo (irene@newsandcitizen.com and ads@stowereporter.com removed from distribution list per Lisa Stearns.	Tel: 888-2212 FAX: 888-2173 Attn: Bryan
St. Albans Messenger Legals (legals@samessenger.com ; cfoley@orourkemediagroup.com)	Tel: 524-9771 ext. 117 FAX: 527-1948 Attn: Legals
The Islander (islander@vermontislander.com)	Tel: 802-372-5600 FAX: 802-372-3025
Vermont Lawyer (hunter.press.vermont@gmail.com)	Attn: Will Hunter

FROM: APA Coordinator, VSARA

Date of Fax: October 16, 2023

RE: The "Proposed State Rules " ad copy to run on

October 26, 2023

PAGES INCLUDING THIS COVER MEMO:

3

***NOTE* 8-pt font in body. 12-pt font max. for headings - single space body. Please include dashed lines where they appear in ad copy. Otherwise minimize the use of white space. Exceptions require written approval.**

If you have questions, or if the printing schedule of your paper is disrupted by holiday etc. please contact VSARA at 802-828-3700, or E-Mail sos.statutoryfilings@vermont.gov, Thanks.

PROPOSED STATE RULES

By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at <https://secure.vermont.gov/SOS/rules/>. The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

Expansion of Eligibility Criteria for Temporary Housing Assistance.

Vermont Proposed Rule: 23E11

AGENCY: Agency of Human Services

CONCISE SUMMARY: Temporary housing assistance under the General Assistance program provides up to 84 or 28 days of housing in a hotel or motel. Households that are without housing due to a catastrophic situation may be eligible for up to 84 days. Households that are ineligible under catastrophic criteria may be eligible for up to 28 days if the household has a member belonging to a vulnerable population. This rule maintains categorical eligibility for 28 days of housing for families with children under 18 years of age or who are 18 or 19 years of age and attending school, as initially established in 23-E05. This rule also maintains the update to the basic needs standard chart in rule 2652.4 and the methodology for calculating the 30 percent income contribution in rule 2652.4, as initially established in 23-E05. This rule adds language addressing lodging licensing violations. Criteria related to the Act 81 transition benefit are not included in this rule and will be included in a separate emergency rule.

FOR FURTHER INFORMATION, CONTACT: Heidi Moreau, Agency of Human Services, Department for Children and Families 280 State Drive, NOB 1 North, Waterbury, VT 05671 Tel: 802-595-9639 E-Mail: heidi.moreau@vermont.gov URL: <https://dcf.vermont.gov/esd/laws-rules/current>.

FOR COPIES: Jennifer Myka, Agency of Human Services, Department for Children and Families 280 State Drive, NOB 1 North, Waterbury, VT 05671 Tel: 802-798-9824 E-Mail: jennifer.myka@vermont.gov.

Emergency Housing Transition Benefit.

Vermont Proposed Rule: 23E12

AGENCY: Agency of Human Services

CONCISE SUMMARY: Act 81 established an emergency housing transition benefit that provides continued housing in a hotel or motel for households that were housed through the pandemic-era General Assistance Emergency Housing Program as of June 30, 2023. Under Act 81, the transition benefit ends April 1, 2024. This emergency rule maintains the eligibility criteria initially established in 23-E05, with the following changes: 1) language clarifying that a household must accept and maintain a hotel or motel housing placement for the duration of the eligibility reassessment period to maintain eligibility for the transition benefit; 2) not including "upon expiration of the eligibility reassessment period" from rule 2652.5(D)(i) to align with the requirement in Act 81 that eligibility terminate upon noncompliance with the criteria established in the Act; 3) new definition of misconduct; 4) language addressing hospital-level care and short-term alternative housing placements; and

5) language addressing notice and appeal rights.

FOR FURTHER INFORMATION, CONTACT: Heidi Moreau, Agency of Human Services, Department for Children and Families 280 State Drive, NOB 1 North, Waterbury, VT 05671 Tel: 802-595-9639 E-Mail: heidi.moreau@vermont.gov URL: <https://dcf.vermont.gov/esd/laws-rules/current>.

FOR COPIES: Jennifer Myka, Agency of Human Services, Department for Children and Families 280 State Drive, NOB 1 North, Waterbury, VT 05671 Tel: 802-798-9824 E-Mail: jennifer.myka@vermont.gov.

Independent School Program Approval Rules.

Vermont Proposed Rule: 23P037

AGENCY: Agency of Education / Vermont Board of Education

CONCISE SUMMARY: The proposed amendments to the Independent School Program Approval Rules are designed to incorporate the principles and goals of Act No.1 (2019), seeking to ensure that schools (1) promote critical thinking regarding the history, contributions, and perspectives of ethnic and social groups; (2) include instructional materials and methods to enable students to explore and understand questions of identity and membership in ethnic and social groups, race equality, and racism; and (3) facilitate welcoming environments for all students without bias or exclusion. These amendments also establish a method for recognizing school accrediting agencies, create an annual compliance assurance requirement for approved schools, require a method for evaluating whether an approved school is compliant with nondiscrimination requirements, clarify the process for accredited and non-accredited schools to apply and become approved, and reorganize the order of the rules for clarity and to align sequentially with the steps for independent school approval and reapproval.

FOR FURTHER INFORMATION, CONTACT: Jennifer Deck Samuelson, State Board of Education 1 National Life Drive Davis 5, Montpelier, VT 05602-2501 Tel: 802-828-0047 Fax: 802-828-6430 E-Mail:

SBE.PublicComment@vermont.gov URL: <https://education.vermont.gov/state-board-councils/state-board/rulemaking>.

FOR COPIES: Sarah Buxton, Special Counsel - State Board of Education, 44 East State Street, Montpelier, VT 05602 Tel: 802-223-1112 Fax: 802-223-6225 E-Mail: sarah@tarrantgillies.com.

Children's Personal Care Services.

Vermont Proposed Rule: 23P038

AGENCY: Agency of Human Services, Department of Health

CONCISE SUMMARY: The rule sets forth the criteria for Medicaid coverage and reimbursement for Children's Personal Care Services (CPCS) under Vermont's Medicaid program. This rule revises and replaces current Medicaid covered services rule 4.233. The proposed amendments include the following: 1) Implements payment to legally responsible individuals for providing children's personal care services authorized under Vermont's Medicaid program. This was put in place as a temporary option during the public health emergency caused by COVID-19. It became a permanent option after the Vermont Medicaid program obtained the necessary 1115 Global Commitment to Health Waiver authority to continue payment to legally responsible individuals beyond the end of the public health emergency. 2) Implements the Electronic Visit Verification (EVV) tool for all CPCS providers as mandated by Medicaid through the 21st Century Cures Act. 3) Modifies the rule for clarity by defining program practices.

FOR FURTHER INFORMATION, CONTACT: Natalie Weill, Vermont Department of Health, 108 Cherry Street, Burlington, VT 05401 Tel: 802-863-7280 Fax: 802-951-1275 E-Mail: ahs.vdhrules@vermont.gov. URL: <https://www.healthvermont.gov/laws-regulations/laws/public-comment>.

FOR COPIES: Brendan Atwood, Vermont Department of Health, 108 Cherry Street, Burlington, VT 05401 Tel: 802-863-7280 Fax: 802-951-1275 E-Mail: ahs.vdhrules@vermont.gov
