

Updates to Rule 2200 Series

Presentation to the Vermont House Committee on Education

January 18, 2023

Act 173 of 2018

“An act relating to enhancing the effectiveness, availability, and equity of services provided to students who require additional support.”

Section 2200

“The purpose of independent school approval rules is to assure effective, available, and equitable educational opportunities for students enrolled in Vermont’s independent schools in accordance with State and federal law and aligned with the purposes set forth in Act 173 of 2018.”

Two Categories of Changes Required by Act 173

- Changes to rules governing special education services
 - Rule Series 1300 (Special Education Finance & Census-Based Funding)
 - Rule Series 2360 (Special Education Rules)
 - **These rule changes became effective on July 1, 2022**
- Changes to rules governing access to special education services for publicly funded students attending approved independent schools in Vermont
 - Rule Series 2200 (Independent School Program Approval)

Two Subcategories of Changes within 2200 Rule Series

- Changes Required by Act 173
 - Acceptance of students with special education needs at approved independent schools that are eligible to receive public tuition funds
 - Provision of special education services to students attending approved independent schools that are eligible to receive public tuition funds
 - **These rule changes will go into effect on July 1, 2023.**
- Other Changes Within the Scope of the Board's Authority
 - The State Board has the authority pursuant to 16 V.S.A. §164(7) to make legally binding rules within the scope of its authority in order to assist in the interpretation, implementation, and enforcement of the education statutes within the limitations of legislative intent.
<https://education.vermont.gov/state-board-councils/state-board/rulemaking>
 - **These rule changes became effective on May 10, 2022**

Changes in 2200 Rule Series Unrelated to Act 173

- **Rule 2223.9** – Establishes a more rigorous, comprehensive, and transparent process to govern investigation, adjudication, and disposition of complaints.
- **Rule 2224** – Explicitly recognizes the New England Association of Schools and Colleges (NEASC) and the Association of Independent Schools in New England (AISNE) as accrediting agencies.
- **Rules 2226 & 2227** – Specifically requires compliance with two key anti-discrimination statutes, the Vermont Public Accommodations Act and the Vermont Fair Employment Practices Act, as conditions of the Application and Approval processes.
- **Rule 2227** – Requires schools operating boarding programs to be accredited by an approved external accreditor unless they are licensed by DCF.
- **Rule 2229.1(a)** – Sets forth specific rules that require anti-discrimination in enrollment and admissions policies at independent schools.

Rule 2226 (Application)

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 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 curriculum, methods of instruction, evaluation procedures and special services that the school 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.

Rule 2226 (Application)

2226.8 Statements regarding professional staff including:

2226.8.1 Professional Staff qualifications.

- (1) A job description for each position or a statement describing training, experience, and degree(s) required for each position.
- (2) A resume, vita, or description of appropriate qualifications for each current staff member.
- (3) Current assignment of each professional staff member.

2226.8.2 Professional Staff Development.

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

2226-8.3 Professional Environment.

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

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 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).

Rule 2227 (Approval)

After providing an opportunity for a hearing, the Board shall approve an independent school that offers elementary or secondary education if it finds that the school provides a minimum course of study pursuant to 16 V.S.A. §906 and substantially complies with the Board's rules for approved independent schools based upon the following findings:

2227.1 The description of the school in the approval application is accurate.

2227.2 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.

2227.3 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, and a system of records by which student progress may be assessed.

2227.4 The school has classroom, laboratory, library, and other facilities necessary to operate its program.

2227.5 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:

2227.5.1 For teachers, a minimum of a bachelor's degree in their field of instruction or substantially equivalent time in training and experience in their field of instruction.

2227.5.2 For all professional staff, relevant experience and/or training in other programs not related to teaching or administrative duties to which they are assigned.

Rule 2227 (Approval)

2227.6 The school has an adequate program of continuing professional staff development as demonstrated in the application.

2227.7 The school employs a sufficient number of professional staff for the population served.

2227.8 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 operations and requirements relative to its facilities, fire drills, and the immunization of its students against disease.

2227.9 The school maintains a register of the daily attendance of each of its enrolled students.

2227.10 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.

2227.11 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.

2227.12 The school complies with the requirements of 16 V.S.A. §255 relating to criminal record checks and checks of the Child Protection Registry and the Vulnerable Adult Abuse, Neglect, and Exploitation Registry.

2227.13 The school complies with legal requirements concerning nondiscriminatory school branding.

2227.14 The school has adopted a policy on record maintenance and retention that, at minimum, provides for the timely and confidential disposition of student records in the event of the school’s closure.

Rule 2226.6 (Application)

An application for initial approval or renewal of approval shall contain a 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.

Rule 2227 (Approval)

The Board shall make the following findings prior to approval:

2227.8 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 operations and requirements relative to its facilities, fire drills, and the immunization of its students against disease.

2227.13 The school complies with legal requirements concerning nondiscriminatory school branding.

Rule 2229.1(a)

Each approved independent school shall publish, maintain and follow a written enrollment policy which, at minimum, shall provide the following:

- (1) That the student or the parent of a student seeking to attend the approved independent 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;
- (4) That a student shall be accepted for enrollment in a 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 race, creed, color, national origin, marital status, sex, sexual orientation, or gender identity or any other classification protected by federal or State law.