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## TESTIMONY

**Testimony To:** Senate Committee on Education

**Respectfully Submitted by:** Ted Fisher, Director of Communications and Legislative Affairs

**Subject:** **Agency of Education Feedback on S.204**

**Date:** February 7, 2024

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Thank you for the opportunity to provide testimony on S.204 – an act relating to reading assessment and intervention.

Firstly, we understand that members of the AOE have provided some initial testimony, as well as feedback via email. AOE has not however provided formal official testimony on the most current draft. It is my pleasure to be here today on behalf of Secretary Bouchey to reflect the Agency’s position on the policy constructs, as well as the results of our legal team’s review, specifically of provisions related to approved independent schools and contemplated requirements that would apply to them.

Today I will bring specific comments on provisions related to independent schools, as well as several other miscellaneous comments on provisions of the bill.

### Independent Schools

Upon review of this bill, AOE has questions and concerns about some of the provisions that are specifically applied to approved independent schools.

### Local Comprehensive Assessments and Independent Schools

Two provisions of this draft apply to Approved Independent Schools and Local Comprehensive Assessment Systems and EQS:

- Sec. 1 (b)(1), on page 2, line 2, requires the AOE to annually include a list of reviewed universal reading screeners and assessments for dyslexia in guidance and technical assistance on Local Comprehensive Assessment Systems (LCAS) issued to Supervisory Unions (SU/SDs) and approved independent schools.
- On page 4, line 6, the Education Quality Standards (EQS) are included in a provision requiring public and approved independent schools to follow AOE guidance on a range of different state and federal statutes and requirements.

Inclusion of the term independent schools in both of these provisions makes them very complex. The AOE requests clarity on legislative intent for the following two items:



1. **EQS and LCAS** - Is the intent to require approved independent schools to comply with EQS and to maintain an LCAS? If so, further amendment related to 16 V.S.A. §165 is needed, as it does not currently apply any EQS requirements (the LCAS requirement is located in EQS) to approved independent schools.
2. **Definition of Approved Independent Schools** - Is the intent to apply new requirements on literacy to approved independent schools, including those not eligible for public funds, or is the intent to limit literacy requirements to approved independent schools that intend to receive public funds? Rule 2200 defines “approved independent school” as those schools that are eligible to receive public tuition by meeting certain requirements in rule. As a matter of Title 16, there is no such definition. "Approved independent school that intends to receive public tuition" would be more clear, assuming that is the intent

## **MTSS Guidance**

Section 1 (d) requires a data driven approach to identification of additional diagnostic assessment and evidence-based curriculum. On Page 4, lines 2-3, approved independent schools are required to follow AOE guidance on Multi-tiered System of Supports (MTSS) and Educational Support Teams (EST) as part of the same provision referenced above.

Further clarity is needed. Is the intent to require approved independent schools to implement MTSS and ESTs? In current law, approved independent schools (whether approved for public tuition or not) are not required to have an MTSS or ESTs. These requirements are located in 16 V.S.A. §2902.

## **General Comment on Inclusion of Independent Schools**

Finally, it is worth flagging that, while inclusion of approved independent schools (eligible for public funds or otherwise) in these provisions is a policy decision entirely within the purview of the General Assembly, it is in the AOE’s analysis a decision that applies to many other areas of policy aside from just literacy. We’ve noted several other areas that do not require clarification, but where there appears to be a policy decision to include approved independent schools (for example Sec. 1 (e), directly following on page 5).

The committee may want to take additional testimony or engage in further deliberations before engaging in a broader policy change, The AOE would welcome an opportunity to be part of that conversation if it is the committee’s desire.

## **Additional Feedback**

In addition to comments on the question of independent schools, AOE has several suggested edits for consideration by the committee:

- In Sec. 1 (f), on page 5, line 6, we are concerned that some of the provisions in this section may conflict with requirements for notifications, meetings and other parental engagement elements of the Individuals with Disabilities Education Act of 1990 (IDEA) or Section 504 of the Rehabilitation Act of 1990. AOE would be more comfortable if this subsection directed us to develop a plan for parental

notification that is consistent with these requirements and the legislative intent reflected in this section.

- More generally, while AOE agrees with the committee that universal screening is important, we want to take the opportunity to signpost that this will be a significant lift for both the AOE and the field. Additional conversation and deliberation on implementation will be important before enactment.