Citations to Statute; differences between public schools and approved independent schools

(14) Adopt rules for approval of independent schools that acknowledge and are consistent with legislative intent, as expressed through legislation passed by the General Assembly that recognizes differences between public and approved independent schools, including in their:

- governance and organizational structures
  - A public school is under the jurisdiction of a school district, which is a municipality (1 V.S.A. § 126) and is governed by the board of the school district, which is elected by the district's electorate. 16 V.S.A. § 423. p. 7 p. 9
  - An approved independent school is a nonpublic entity, usually organized as a nonprofit entity and is governed by a board that is not elected by the electorate.
- missions
  - The following provisions require a public school to offer open enrollment and to offer all categories of special education:
    - "A competent number of schools ought to be maintained in each town unless the general assembly permits other measures for the convenient instruction of youth." Vt. Const. Ch. II, § 68.

- Each school district is required to operate a school or pay tuition to other schools for its resident students. 16 V.S.A. §§ 821 and 822. P. 21-22
- It is the policy of the State that each local school district develop and maintain a comprehensive system of education that will 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. 16 V.S.A. § 2901. 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. 16 V.S.A. § 2902. P 35 P.36

  - There are no comparable provisions in statute that apply to approved independent schools.

- <u>scope of responsibilities</u>
  - Because a public school is required to offer open enrollment and to offer all categories of special education (see "missions" above), a public school has a broader scope of responsibility than an approved independent school.

- In addition, a public school:
  - Must partake in public high school choice. 16 V.S.A. § 822a. P. 23-25
  - Must annually seek voter approval of its budget. 16 V.S.A. § 428. P. 10
  - Must offer a high school completion program to any resident individual who is at least 16 years of age who does not have a high school diploma. 16 V.S.A. § 943. P. 27
  - Must educate State-placed pupils within the district. 16 V.S.A. § 1075(c). P. 28-30

- <u>educator licensure and evaluation requirements</u>
  - A person may not be employed as a teacher or administrator in a public school without having a license. 16 V.S.A. § 1692. The Vermont Standards Board for Professional Educators evaluates candidates and grants licenses. 16 V.S.A. § 1693. Reports of unprofessional conduct must be made to the Secretary. 16 V.S.A. § 1699. P. 31 P. 32-33 P. 34
  - There are no comparable provisions in statute that apply to an approved independent school.

- <u>programmatic requirements</u>
  - Both public schools and approved independent schools are subject to the minimum course of study requirements of 16 V.S.A. § 906. P. 26

- However, only public schools are subject to the educational quality standards of 16 V.S.A. § 165. P. 13-16

- <u>reporting requirements</u>
  - The State Board requires extensive reporting by public schools because the General Assembly has charged the State Board with the duty to:
    - 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 V.S.A. § 164(15). P. 11-12
    - Report annually on the condition of education statewide and on a school-by-school basis. 16 V.S.A. § 164(17). P. 11-12
  - The State Board is required to adopt rules that require an approved independent school to have the resources required to meet its stated objective. 16 V.S.A. § 166(b). Therefore, reporting requirements for an approved independent school are centered on ensuring the financial viability of the independent school. P. 17-20

VERMONT
AGENCY OF EDUCATION
219 North Main Street | Suite 402 | Barre, VT 05641
(p) 802-479-1030 | (f) 802-479-1835 | education.vermont.gov

TESTIMONY PROVIDED TO: House Education Committee
FROM: Bill Talbott, CFO and Deputy Secretary, Agency of Education
TOPIC: Independent Schools and Public Schools – Differences in Requirements
DATE: February 3, 2015

The House Education Committee requested information from the Agency as to how rules affect independent schools and public schools differently. What follows is a list of examples of the mandates that are required of public schools and not independent schools, from the Agency of Education staff. This question relates to work across virtually the entire agency (programmatic, fiscal, licensure, etc.). It may not be an entirely exhaustive list.

Fiscal Requirements

1. Report financial data to Agency of Education
2. Annual audits
3. Annual meetings and budget votes
4. Shall go out for public bids for most costs in excess of $15,000
5. Shall provide all text books, learning materials, equipment, and supplies
6. Shall return an audited surplus to the voters either as a revenue or as a voter approved reserve fund
7. Shall add an audited deficit to the next adopted budget unless voters choose to repay the deficit over a period of up to three years

Educator Licensure and Evaluation Requirements

8. Teachers must be licensed and reports of unprofessional conduct must be made to the Secretary, as may be required, pursuant to the reporting requirements at 16 V.S.A. Sec. 1699.
9. Special Educators must be licensed (independent schools approved for special education categories by the Agency must deliver those services through a licensed special educator.)
10. Needs-based professional development based on State Board of Education educational standards and performance goals
11. Shall provide educator licensure information and school scheduling to determine Highly Qualified Teacher analysis (public schools must do so pursuant to Title statutes and the receipt of Federal funds which independent schools are not eligible.)
12. Teacher and leader evaluation models would be evaluated by the Agency.

Programmatic and Reporting Requirements

13. Special education shall be provided to all eligible resident children. (independent schools approved by the Agency are required to do this)
14. Special education audits must be conducted (independent schools approved by AOE are required to do this)

15. Multiple and varied data collections (many of these are required pursuant to receipt of funding):
    a. Act 113 School Safety and Disciplinary Report
    b. Annual Statistical Report Data Collection
    c. Educator Census Data Collection
    d. Education Support System Survey
    e. Health Service Screening
    f. Office of Civil Rights Survey (federal)
    g. Perkins Grant Funding Report (only applicable for independent schools serving as a career and technical center)
    h. Restrictive Behavioral Intervention Survey
    i. Safe and Healthy Schools Data Collection
    j. School Readiness Project Survey
    k. Safe and Drug Free School Report
    l. School Arts Survey
    m. Student Educator Course Transcript Data (federal)
16. Shall abide by the Family Medical Leave Act
17. Alcohol and drug reporting
18. Annual action plan to improve student performance within school
19. Shall administer state and federal assessments (for accountability purposes)
20. Shall maintain computer-based information systems to record and report data
21. Shall report annually to the public
22. Shall ensure students are furnished educational services in in a nondiscriminatory fashion in accordance with state and federal entitlements (except when independent schools serve as a CTE center)
23. Shall partake in public high school choice
24. Shall offer 10 hours of high quality prekindergarten education for 35 weeks during the academic year
25. Flexible pathways
    a. High school completion program
    b. Personalized learning plans (public funded students are eligible for dual enrollment vouchers and early college and are required to have a PLP for that purpose.)
    c. Dual enrollment
    d. Early college
26. Shall accept for enrollment any resident individual who does not have a high school diploma
27. Shall educate all state-placed pupils within a district
28. Shall appoint a truancy officer
29. Shall operate a food program to make lunch and breakfast available as well as a summer food program

END

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 01 : General Provisions

Chapter 003 : Construction Of Statutes

Subchapter 002 : Definition Of Terms

(Cite as: 1 V.S.A. § 126)

§ 126. Municipality

"Municipality" shall include a city, town, town school district, incorporated school or fire district or incorporated village, and all other governmental incorporated units.

7

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 16 : Education

Chapter 009 : School Districts

Subchapter 001-A : Government Of School Districts

(Cite as: 16 V.S.A. § 423)

§ 423. Directors, number, election; term

(a) Each town school district shall have a school board consisting of three directors, one of whom shall be elected by ballot at each annual meeting of the town school district for a term of three years, beginning the day of election or until a successor is elected and qualified, unless a town school district is a member of a unified union district.

(b) The electorate may vote at an annual or special town school district meeting to elect not more than two additional directors for terms of either one or two years. When the terms are to be for two years, the warning for the meeting shall so specify. If two additional directors are elected they shall have terms of the same length, but if the terms are to be for two years, when the additional directors are first elected, one shall be elected for one year and the other director for two years. Terms of these additional directors shall end on annual meeting days. If the additional directors are elected at a special meeting the term of those elected for one year shall expire on the next annual meeting day and those elected for two years shall expire on the second annual meeting day following their election.

(c) The electorate shall continue to elect additional school directors until it votes at a meeting duly warned for the purpose to rescind its previous action under subsection (b) of this section; but the additional directors then in office shall continue in office until the end of the term to which they were elected.

(d) A town school district that holds its annual meeting on a day other than annual town meeting day may vote to elect its officers and its representative directors to union school districts on town meeting day. Their terms of office shall commence on the annual school district meeting day unless the district votes to have the terms of office commence on town meeting day. (Added 1969, No. 298 (Adj. Sess.), § 43; amended 1983, No. 154 (Adj. Sess.), eff. April 13, 1984.)

9

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 16 : Education

Chapter 009 : School Districts

Subchapter 001-A : Government Of School Districts

(Cite as: 16 V.S.A. § 428)

§ 428. Budget to be voted

(a) At each annual town school district meeting, the electorate shall vote such sums of money as it deems necessary for the support of schools. If such sums are not approved or acted upon at the annual meeting, the electorate shall vote such questions at a duly warned special school district meeting. A district may vote money necessary for the support of schools therein to the end of the full school year next ensuing.

(b) If the electorate of a school district votes for its budget by Australian ballot, it shall do so using ballot language jointly developed by the Secretary of Education and the Secretary of State and adopted by the State Board, by rule. (Added 1969, No. 298 (Adj. Sess.), § 48; amended 1985, No. 196 (Adj. Sess.), § 21; 1997, No. 60, § 26, eff. July 1, 1998; 1997, No. 71 (Adj. Sess.), §§ 1, 83, eff. March 11, 1998, § 71, eff. Jan. 1, 1999; 1999, No. 1, § 60c, eff. March 31, 1999; 1999, No. 152 (Adj. Sess.), § 166b; 2003, No. 36, § 3; 2003, No. 68, § 1; 2013, No. 92 (Adj. Sess.), § 48, eff. Feb. 14, 2014.)

10

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

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 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:

(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) Review and comment on an Agency budget prepared by the Secretary for the Governor.

(5) [Repealed.]

(6) Make regulations governing the attendance and records of attendance of all students and the deportment of students attending public schools.

(7) Adopt rules pursuant to 3 V.S.A. chapter 25 as necessary or appropriate for the execution of its powers and duties and of the powers and duties of all persons under its supervision and control.

(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

(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 school-by-school 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 harassment, hazing, 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 to determine its strengths and weaknesses. The Secretary shall use the information in the report to determine whether students in each school are provided educational opportunities substantially equal to those provided in other schools 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.

12

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 16 : Education

Chapter 003 : State Board Of Education

Subchapter 001 : General Provisions

(Cite as: 16 V.S.A. § 165)

§ 165. Education quality standards; equal educational opportunities; independent school meeting education quality standards

(a) In order to carry out Vermont's policy that all Vermont children will be afforded educational opportunities that are substantially equal in quality, each Vermont public school, including each career technical center, shall meet the following education quality standards:

(1) The school, through a process including parents, teachers, students, and community members, develops, implements, and annually updates a continuous improvement plan to improve student performance within the school. The plan shall include goals and objectives for improved student learning and educational strategies and activities to achieve its goals. The plan shall also address the effectiveness of efforts made since the previous continuous improvement plan to ensure the school maintains a safe, orderly, civil, and positive learning environment that is free from harassment, hazing, and bullying. The school shall assess student performance under the plan using a method or methods of assessment developed under subdivision 164(9) of this title.

(2) The school, at least annually, reports student performance results to community members in a format selected by the school board. In the case of a regional career technical center, the community means the school districts in the service region. The school report shall include:

(A) Information indicating progress toward meeting standards from the most recent measure taken.

(B) [Repealed.]

(C) Information indicating progress toward meeting the goals of an annual continuous improvement plan.

(D) Any other statistical information about the school or community that the school board deems necessary to place student performance results in context.

(E)-(G) [Repealed.]

(H) A description of how the school ensures that each student receives appropriate career counseling and program information regarding availability of education and apprenticeship program offerings at career technical centers.

(I) [Repealed.]

(J) If the school is a secondary school, information and supporting data presented in

13

a manner designed to protect student confidentiality on the dropout and graduation rates.

(K) Data provided by the Secretary that enable a comparison with other schools, or school districts if school level data are not available, for cost-effectiveness. The Secretary shall establish which data are to be included pursuant to this subdivision and, notwithstanding that the other elements of the report are to be presented in a format selected by the school board, shall develop a common format to be used by each school in presenting the data to community members. The Secretary shall provide the most recent data available to each school no later than October 1 of each year. Data to be presented include student-to-teacher ratio, administrator-to-student ratio, administrator-to-teacher ratio, and cost per pupil.

(3) The school substantially meets standards adopted by rule of the State Board regarding conditions, practices and resources of schools. The standards shall address those aspects of the following that are most closely associated with improving student performance:

(A) school leadership, staffing, and support services;

(B) instructional practices and curriculum leadership, content, and coordination;

(C) educational materials and school facilities;

(D) access to current technology.

(4) The school shall provide for and the staff shall use needs-based professional development designed to improve the quality of education provided to the students and directly connected to standards for student performance established by the State Board and any other educational performance goals established by the school board.

(5) The school uses staff evaluation to advance educational performance objectives.

(6) The school ensures that students receive appropriate career counseling and program information regarding the availability of education and apprenticeship program offerings at career technical centers. In addition, the school, if it is a secondary school, offers a genuine opportunity to access career technical education programs.

(7) The school ensures that students are furnished educational services in accordance with any State or federal entitlements and in a nondiscriminatory manner.

(8) The school maintains a safe, orderly, civil, and positive learning environment that is free from hazing, harassment, and bullying, and is based on sound instructional and classroom management practices and clear discipline policies that are consistently and effectively enforced.

Subsection (b) effective until July 1, 2020; see also subsection (b) effective July 1, 2020 set out below.

(b) Every two years, the Secretary shall determine whether students in each Vermont public school are provided educational opportunities substantially equal to those provided in other public schools. If the Secretary determines that a school is not meeting the education quality standards listed in subsection (a) of this section or that the school is making

14

insufficient progress in improving student performance in relation to the standards for student performance set forth in subdivision 164(9) of this title, he or she shall describe in writing actions that a district must take in order to meet either or both sets of standards and shall provide technical assistance to the school. If the school fails to meet the standards or make sufficient progress by the end of the next two-year period, the Secretary shall recommend to the State Board one or more of the following actions:

(1) continue technical assistance;

(2) adjust supervisory union boundaries or responsibilities of the superintendency;

(3) assume administrative control only to the extent necessary to correct deficiencies; or

(4) close the school and require that the school district pay tuition to another public school or an approved independent school pursuant to chapter 21 of this title.

Subsection (b) effective July 1, 2020; see also subsection (b) effective until July 1, 2020 set out above.

(b) Every two years, the Secretary shall determine whether students in each Vermont public school are provided educational opportunities substantially equal to those provided in other public schools. If the Secretary determines that a school is not meeting the education quality standards listed in subsection (a) of this section or that the school is making insufficient progress in improving student performance in relation to the standards for student performance set forth in subdivision 164(9) of this title, he or she shall describe in writing actions that a district must take in order to meet either or both sets of standards and shall provide technical assistance to the school. If the school fails to meet the standards or make sufficient progress by the end of the next two-year period, the Secretary shall recommend to the State Board one or more of the following actions:

(1) the Agency continue to provide technical assistance for one more cycle of review;

(2) the State Board adjust supervisory union boundaries or responsibilities of the superintendency pursuant to section 261 of this title;

(3) the Secretary assume administrative control of an individual school, school district, or supervisory union, including budgetary control to ensure sound financial practices, only to the extent necessary to correct deficiencies;

(4) the State Board close an individual school or schools and require that the school district pay tuition to another public school or an approved independent school pursuant to chapter 21 of this title; or

(5) the State Board require two or more school districts to consolidate their governance structures.

(c) The State Board, after offering the school board an opportunity for a hearing, shall either dismiss the Secretary's recommendation or order that one or more of the actions listed in subsection (b) of this section be taken. The action ordered by the State Board shall be the least intrusive consistent with the need to provide students attending the school substantially equal educational opportunities. A school board aggrieved by an order of the

15

State Board may appeal the order in accordance with the Rules of Civil Procedure.

(d) Nothing in this section shall be construed to entitle any student to educational programs or services identical to those received by students in the same or any other school district. Further, nothing in this section shall create a private right of action.

(e) If the Secretary determines at any time that the failure of a school to meet the education quality standards listed in subsection (a) of this section is severe or pervasive, potentially results in physical or emotional harm to students, or significant deprivation of equal education opportunities, and the school has either unreasonably refused to remedy the problem or its efforts have proved ineffective, he or she may recommend to the State Board one or more of the actions listed in subsection (b) of this section. The State Board shall then follow the procedure of subsection (c) of this section.

(f) In order to be designated an independent school meeting education quality standards, an independent school shall participate in the education quality standards process of subsection (b) of this section. An independent school shall receive technical assistance in accordance with the provisions of subsection (b), but shall not be subject to subdivisions (b)(2)-(4) of this section. The school shall be an independent school meeting education quality standards unless the State Board, after opportunity for hearing, finds that:

(1) the school has discontinued its participation in the education quality standards process; or

(2) two or more years following a determination that the school is not meeting the education quality standards or that the school is making insufficient progress in improving student performance, the school fails to meet the standards or make sufficient progress toward meeting the standards. (Added 1969, No. 298 (Adj. Sess.), § 16; amended 1981, No. 151 (Adj. Sess.), § 6; 1987, No. 97, § 5, eff. June 23, 1987; 1989, No. 44, § 3, eff. June 1, 1990; 1997, No. 60, § 4, eff. July 1, 1998; 1997, No. 71 (Adj. Sess.), § 82, eff. March 11, 1998; 1997, No. 138 (Adj. Sess.), § 4, eff. April 27, 1998; 1999, No. 113 (Adj. Sess.), § 1b; 1999, No. 120 (Adj. Sess.), § 4; 2001, No. 8, § 2; 2003, No. 68, § 46, eff. June 18, 2003; 2005, No. 54, § 1; 2007, No. 154 (Adj. Sess.), § 7; 2013, No. 92 (Adj. Sess.), §§ 12, 302, eff. Feb. 14, 2014; 2013, No. 142 (Adj. Sess.), § 27; 2015, No. 23, § 19; 2015, No. 46, § 40, eff. July 1, 2020; 2015, No. 131 (Adj. Sess.), § 24.)

16

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

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 herein.

(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 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.

(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.

17

(5) The State Board may revoke or suspend the approval of an approved independent school, after opportunity for hearing, for substantial failure to comply with the minimum course of study, for failure to comply with the Board's rules for approved independent schools, or for failure to report under subdivision (4) of this subsection (b). Upon 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.

(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

18

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

19

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) 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) 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.)

20

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 16 : Education

Chapter 021 : Maintenance Of Public Schools

(Cite as: 16 V.S.A. § 821)

§ 821. School district to maintain public elementary schools or pay tuition

(a) Elementary school. Each school district shall maintain one or more approved schools within the district in which elementary education for its resident students in kindergarten through grade six is provided unless:

(1) the electorate authorizes the school board to provide for the elementary education of the students by paying tuition in accordance with law to one or more public elementary schools in one or more school districts;

(2) the school district is organized to provide only high school education for its students; or

(3) the General Assembly provides otherwise.

(b) [Repealed.]

(c) Notwithstanding subsection (a) of this section, without previous authorization by the electorate, a school board in a district that operates an elementary school may pay tuition for elementary students who reside near a public elementary school in an adjacent district upon request of the student's parent or guardian, if in the board's judgment the student's education can be more conveniently furnished there due to geographic considerations. Within 30 days of the board's decision, a parent or guardian who is dissatisfied with the decision of the board under this subsection may request a determination by the Secretary, who shall have authority to direct the school board to pay all, some, or none of the student's tuition and whose decision shall be final.

(d) Notwithstanding subdivision (a)(1) of this section, the electorate of a school district that does not maintain an elementary school may grant general authority to the school board to pay tuition for an elementary student at an approved independent elementary school or an independent school meeting education quality standards pursuant to sections 823 and 828 of this chapter upon notice given by the student's parent or legal guardian before April 15 for the next academic year. (Added 1969, No. 298 (Adj. Sess.), § 52; amended 1985, No. 71, § 4; 1987, No. 141 (Adj. Sess.); 1989, No. 271 (Adj. Sess.), §§ 1, 2; 1991, No. 24, § 11; 2009, No. 44, § 13, eff. May 21, 2009; 2011, No. 58, § 29, eff. May 31, 2011; 2011, No. 129 (Adj. Sess.), § 4, eff. May 11, 2012; 2013, No. 92 (Adj. Sess.), § 95, eff. Feb. 14, 2014; 2015, No. 23, § 21.)

21

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 16 : Education

Chapter 021 : Maintenance Of Public Schools

(Cite as: 16 V.S.A. § 822)

§ 822. School district to maintain public high schools or pay tuition

(a) Each school district shall maintain one or more approved high schools in which high school education is provided for its resident students unless:

(1) the electorate authorizes the school board to close an existing high school and to provide for the high school education of its students by paying tuition to a public high school, an approved independent high school, or an independent school meeting education quality standards, to be selected by the parents or guardians of the student, within or outside the State; or

(2) the school district is organized to provide only elementary education for its students.

(b) For purposes of this section, a school district that is organized to provide kindergarten through grade 12 and maintains a program of education for only the first eight years of compulsory school attendance shall be obligated to pay tuition for its resident students for at least four additional years.

(c)(1) A school district may both maintain a high school and furnish high school education by paying tuition:

(A) to a public school as in the judgment of the school board may best serve the interests of the students; or

(B) to an approved independent school or an independent school meeting education quality standards if the school board judges that a student has unique educational needs that cannot be served within the district or at a nearby public school.

(2) The judgment of the board shall be final in regard to the institution the students may attend at public cost. (Added 1969, No. 298 (Adj. Sess.), § 53; amended 1977, No. 33, § 2; 1989, No. 271 (Adj. Sess.), § 3; 1991, No. 24, § 2; 1997, No. 71 (Adj. Sess.), § 85, eff. March 11, 1998; 2009, No. 44, § 13, eff. May 21, 2009; 2013, No. 92 (Adj. Sess.), § 96, eff. Feb. 14, 2014; 2015, No. 23, § 22.)

22

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 16 : Education

Chapter 021 : Maintenance Of Public Schools

(Cite as: 16 V.S.A. § 822a)

§ 822a. Public high school choice

(a) Definitions. In this section:

(1) "High school" means a public school or that portion of a public school that offers grades 9 through 12 or some subset of those grades.

(2) "Student" means a student's parent or guardian if the student is a minor or under guardianship and means a student himself or herself if the student is not a minor.

(b) Limits on transferring students. A sending high school board may limit the number of resident students who transfer to another high school under this section in each year; provided that in no case shall it limit the potential number of new transferring students to fewer than five percent of the resident students enrolled in the sending high school as of October 1 of the academic year in which the calculation is made or 10 students, whichever is fewer; and further provided that in no case shall the total number of transferring students in any year exceed 10 percent of all resident high school students or 40 students, whichever is fewer.

(c) Capacity. On or before February 1 each year, the board of a high school district shall define and announce its capacity to accept students under this section. The Secretary shall develop, review, and update guidelines to assist high school district boards to define capacity limits. Guidelines may include limits based on the capacity of the program, class, grade, school building, measurable adverse financial impact, or other factors, but shall not be based on the need to provide special education services.

(d) Lottery.

(1) Subject to the provisions of subsection (f) of this section, if more than the allowable number of students wish to transfer to a school under this section, then the board of the receiving high school district shall devise a nondiscriminatory lottery system for determining which students may transfer.

(2) Subject to the provisions of subsection (f) of this section, if more than the allowable number of students wish to transfer from a school under this section, then the board of the sending high school district shall devise a nondiscriminatory lottery system for determining which students may transfer; provided, however:

(A) a board shall give preference to the transfer request of a student whose request to transfer from the school was denied in a prior year; and

(B) a board that has established limits under subsection (b) of this section may choose to waive those limits in any year.

23

(e) Application and notification.

(1) A high school district shall accept applications for enrollment until March 1 of the school year preceding the school year for which the student is applying.

(2) A high school district shall notify each student of acceptance or rejection of the application by April 1 of the school year preceding the school year for which the student is applying.

(3) An accepted student shall notify both the sending and the receiving high schools of his or her decision to enroll or not to enroll in the receiving high school by April 15 of the school year preceding the school year for which the student has applied.

(4) After sending notification of enrollment, a student may enroll in a school other than the receiving high school only if the student, the receiving high school, and the high school in which the student wishes to enroll agree. If the student becomes a resident of a different school district, the student may enroll in the high school maintained by the new district of residence.

(5) If a student who is enrolled in a high school other than in the school district of residence notifies the school district of residence by July 15 of the intent to return to that school for the following school year, the student shall be permitted to return to the high school in the school district of residence without requiring agreement of the receiving district or the sending district.

(f) Enrollment.

(1) An enrolled nonresident student shall be permitted to remain enrolled in the receiving high school without renewed applications in subsequent years unless:

(A) the student graduates;

(B) the student is no longer a Vermont resident; or

(C) the student is expelled from school in accordance with adopted school policy.

(2) A career technical education (CTE) center serving the region in which a receiving high school district is located shall be the CTE center in which a nonresident student under this section is eligible to enroll. The nonresident student shall be eligible to use any transportation the district provides for resident students attending the CTE center.

(g) Tuition and other costs.

(1) Unless the sending and receiving schools agree to a different arrangement, no tuition or other cost shall be charged by the receiving district or paid by the sending district for a student transferring to a different high school under this section; provided, however, a sending high school district shall pay special education and career technical education costs for resident students pursuant to the provisions of this title.

(2) A student transferring to a different high school under this section shall pay no tuition, fee, or other cost that is not also paid by students residing in the receiving district.

(3) A district of residence shall include within its average daily membership any student who transfers to another high school under this section; a receiving school district shall not

24

include any student who transfers to it under this section.

(h) Special education. If a student who is eligible for and receiving special education services chooses to enroll in a high school other than in the high school district of residence, then the receiving high school shall carry out the individualized education program, including placement, developed by the sending high school district. If the receiving high school believes that a student not on an individualized education program may be eligible for special education services or that an existing individualized education program should be altered, it shall notify the sending high school district. When a sending high school district considers eligibility, development of an individualized education program, or changes to a program, it shall give notice of meetings to the receiving high school district and provide an opportunity for representatives of that district to attend the meetings and participate in making decisions.

(i) Suspension and expulsion. A sending high school district is not required to provide services to a resident student during a period of suspension or expulsion imposed by another high school district.

(j) Transportation. Jointly, the superintendent of each supervisory union shall establish and update a statewide clearinghouse providing information to students about transportation options among the high school districts.

(k) Nonapplicability of other laws. The provisions of subsections 824(b) and (c) (amount of tuition), 825(b) and (c) (maximum tuition rate), and 826(a) (notice of tuition change) and section 836 (tuition overcharge and undercharge) of this chapter shall not apply to enrollment in a high school pursuant to this section.

(l) Waiver. If a high school board determines that participation under this section would adversely affect students in its high school, then it may petition the Secretary for an exemption. The Secretary's decision shall be final.

(m) Report. Notwithstanding 2 V.S.A. § 20(d), the Secretary shall report annually in January to the Senate and House Committees on Education on the implementation of public high school choice as provided in this section, including a quantitative and qualitative evaluation of the program's impact on the quality of educational services available to students and the expansion of educational opportunities. (Added 2011, No. 129 (Adj. Sess.), § 34; amended 2013, No. 56, § 4, eff. May 30, 2013; 2013, No. 92 (Adj. Sess.), §§ 97, 302, eff. Feb. 14, 2014.)

25

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 16 : Education

Chapter 023 : Courses Of Study

Subchapter 001 : Public Schools Generally

(Cite as: 16 V.S.A. § 906)

§ 906. Course of study

(a) In public schools, approved and recognized independent schools, and in home study programs, learning experiences shall be provided for students in the minimum course of study.

(b) For purposes of this title, the minimum course of study means learning experiences adapted to a student'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 comprehensive health education, including the effects of tobacco, alcoholic drinks, and drugs on the human system and on society;

(4) English, American, and other literature;

(5) the natural sciences; and

(6) the fine arts. (Added 1969, No. 298 (Adj. Sess.), § 65; amended 1981, No. 151 (Adj. Sess.), § 4; 1987, No. 132 (Adj. Sess.); 1987, No. 270 (Adj. Sess.), § 4, eff. Sept. 1, 1989; 1989, No. 44, § 4, eff. June 1, 1990; 2013, No. 92 (Adj. Sess.), § 302, eff. Feb. 14, 2014.)

26

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 16 : Education

Chapter 023 : Courses Of Study

Subchapter 002 : Flexible Pathways To Secondary School Completion

(Cite as: 16 V.S.A. § 943)

§ 943. High School Completion Program

(a) There is created a High School Completion Program to be a potential component of a flexible pathway for any Vermont student who is at least 16 years old, who has not received a high school diploma, and who may or may not be enrolled in a public or approved independent school.

(b) If a person who wishes to work on a personalized learning plan leading to graduation through the High School Completion Program is not enrolled in a public or approved independent school, then the Secretary shall assign the prospective student to a high school district, which shall be the district of residence whenever possible. The school district in which a student is enrolled or to which a nonenrolled student is assigned shall work with the contracting agency and the student to develop a personalized learning plan. The school district shall award a high school diploma upon successful completion of the plan.

(c) The Secretary shall reimburse, and net cash payments where possible, a school district that has agreed to a personalized learning plan developed under this section in an amount:

(1) established by the Secretary for the development and ongoing evaluation and revision of the personalized learning plan and for other educational services typically provided by the assigned district or an approved independent school pursuant to the plan, such as counseling, health services, participation in cocurricular activities, and participation in academic or other courses; provided, however, that this amount shall not be available to a school district that provides services under this section to an enrolled student; and

(2) negotiated by the Secretary and the contracting agency, with the approved provider, for services and outcomes purchased from the approved provider on behalf of the student pursuant to the personalized learning plan. (Added 2013, No. 77, § 1; amended 2013, No. 77, §§ 4, 5.)

27

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 16 : Education

Chapter 025 : Attendance And Discipline

Subchapter 001 : General Provisions

(Cite as: 16 V.S.A. § 1075)

§ 1075. Legal residence defined; responsibility and payment of education of student

(a) For the purpose of this title, except as otherwise set forth, the legal residence or residence of a student shall be as follows:

(1) In the case of a minor, legal residence is where his or her parents reside, except that:

(A) if the parents live apart, legal residence is where either parent resides, but if a parent with sole custody lives outside the State of Vermont, the student does not have a legal residence in Vermont;

(B) if the minor is in the custody of a legal guardian appointed by a Vermont court or a court of competent jurisdiction in another state, territory, or country, legal residence is where the guardian resides.

(2) In the case of a student who has reached the age of majority, legal residence is where the student resides.

(3) For the purposes of this title, "resident" of the State and of a school district means a natural person who is domiciled in the school district and who, if temporarily absent, demonstrates an intent to maintain a principal dwelling place in the school district indefinitely and to return there, coupled with an act or acts consistent with that intent. The term "temporarily absent" includes those special cases listed in 17 V.S.A. § 2122(a). The term "residence" is synonymous with the term "domicile." A married person may have a domicile independent of the domicile of his or her spouse. If a person removes to another town with the intention of remaining there indefinitely, that person shall be considered to have lost residence in the town in which the person originally resided even though the person intends to return at some future time. A person may have only one residence at a given time.

(b) The Secretary shall determine the legal residence of all State-placed students pursuant to the provisions of this section. In all other cases, the student's legal residence shall be determined by the school board of the district in which the student is seeking enrollment or, if the student is seeking payment of tuition, the school board from which the student is seeking tuition payment. If a student is denied enrollment at any stage, the student and his or her parent or guardian shall be notified in writing, within 24 hours, of the provisions of this section. If the student is not in attendance as a result of a preliminary decision by school officials and a decision from the school board will not be available by the end of the second school day after the request for enrollment is made, the Secretary may issue a temporary order requiring enrollment. Any interested person or taxpayer who is dissatisfied with the

28

decision of the school board as to the student's legal residence may appeal to the Secretary, who shall determine the student's legal residence, and the decision of the Secretary shall be final. Pending appeal under this subsection, the Secretary shall issue a temporary order requiring enrollment.

(c) State-placed students.

(1) A State-placed student, other than one placed in a 24-hour residential facility and except as otherwise provided in this subsection, shall be educated by the school district in which the student is living, unless an alternative plan or facility for the education of the student is agreed upon by the Secretary. In the case of a dispute as to where a State-placed student is living, the Secretary shall conduct a hearing to determine which school district is responsible for educating the student. The Secretary's decision shall be final.

(2) If a student is a State-placed student pursuant to subdivision 11(a)(28)(D)(i)(I) of this title, then the Department for Children and Families shall assume responsibility for the student's transportation to and from school, unless the receiving district chooses to provide transportation.

(3) A student who is in temporary legal custody pursuant to 33 V.S.A. § 5308(b)(3) or (4) and is a State-placed student pursuant to subdivision 11(a)(28)(D)(i)(II) of this title, shall be enrolled, at the temporary legal custodian's discretion, in the district in which the student's parents reside, the district in which either parent resides if the parents live in different districts, the district in which the student's legal guardian resides, or the district in which the temporary legal custodian resides. If the student enrolls in the district in which the temporary legal custodian resides, the district shall provide transportation in the same manner and to the same extent it is provided to other students in the district. In all other cases, the temporary legal custodian is responsible for the student's transportation to and from school, unless the receiving district chooses to provide transportation.

(4) If a student who had been a State-placed student pursuant to subdivision 11(a)(28) of this title is returned to live in the district in which one or more of the student's parents or legal guardians reside, then, at the request of the student's parent or legal guardian, the Secretary may order the student to continue his or her enrollment for the remainder of the academic year in the district in which the student resided prior to returning to the parent's or guardian's district and the student will continue to be funded as a State-placed student. Unless the receiving district chooses to provide transportation:

(A) If the student remains in the legal custody of the Commissioner for Children and Families, then the Department for Children and Families shall assume responsibility for the student's transportation to and from school.

(B) In all other instances under this subdivision (4), the parent or legal guardian is responsible for the student's transportation.

(d) Repealed.]

(e) For the purposes of this title, the legal residence or residence of a child of homeless parents is where the child temporarily resides unless the parents and another school district agree that the child's attendance in school in that school district will be in the best interests

29

of the child in that continuity of education will be provided and transportation will not be unduly burdensome to the school district. A "child of homeless parents" means a child whose parents:

(1) lack a fixed, regular, and adequate residence, or

(2) have a primary nighttime residence in a supervised publicly or privately operated shelter for temporary accommodations such as public assistance hotels, emergency shelters, battered women's shelters, and transitional housing facilities, or a public or private place not designated for, or ordinarily used as, a regular sleeping accommodation for human beings.

(f) For the purposes of this title, the legal residence of an alien, immigrant, or refugee child shall be determined in the same manner as in subsection (e) of this section, unless the child's parents have established a residence in the State.

(g) Repealed.]

(h) For the purposes of this title, the legal residence or residence of an independent student is where the independent student resides. "Independent student" as used in this subsection means a child between the ages of 14 and 18 years who by the acts and expressions of the child and his or her parents or legal guardian has demonstrated that he or she is living separate and apart from his or her parents or legal guardian, is independent of the authority of his or her parents or legal guardian, and is not economically dependent upon his or her parents or legal guardian. For the purposes of this subsection, the term "independent student" shall also include "emancipated minor" as that term is defined in 12 V.S.A. § 7151(a).

(i) The Commissioner for Children and Families shall continue to provide social services and financial support in accordance with section 2950 of this title on behalf of individuals under his or her care and custody while in a residential placement, until they reach their 19th birthday.

(j) A claim or statement of fact bearing on residency shall be subject to 13 V.S.A. § 3016.

(k) Repealed.] (Amended 1967, No. 147, § 25; 1973, No. 152 (Adj. Sess.), § 8, eff. April 14, 1974; 1975, No. 48, § 10, eff. April 15, 1975; 1977, No. 194 (Adj. Sess.), § 1; 1979, No. 6, § 1, eff. March 2, 1979; 1981, No. 153 (Adj. Sess.), § 2; 1985, No. 51; 1989, No. 187 (Adj. Sess.), § 5; 1989, No. 233 (Adj. Sess.), § 1; 1991, No. 21, §§ 2, 3; 1995, No. 145 (Adj. Sess.), § 3; 1995, No. 157 (Adj. Sess.), §§ 5, 30(a)(2), 30(c), and § 29 (eff. July 1, 1997); 1995, No. 174 (Adj. Sess.), § 3; 2003, No. 36, § 8; 2009, No. 44, § 15, eff. May 21, 2009; 2011, No. 58, § 10, eff. May 31, 2011; 2013, No. 92 (Adj. Sess.), § 117, eff. Feb. 14, 2014.)

30

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 16 : Education

Chapter 051 : Professional Educators

(Cite as: 16 V.S.A. § 1692)

§ 1692. Repealed. 2005, No. 214, § 13(d).

§ 1692. Requirement as to license

Except for a substitute teacher in accordance with rules adopted by the Standards Board, a person shall not be employed as a teacher or administrator in a public school without having a license then in force. (Amended 1989, No. 118, § 3; 2005, No. 214 (Adj. Sess.), § 2, eff. July 1, 2007.)

31

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 16 : Education

Chapter 051 : Professional Educators

(Cite as: 16 V.S.A. § 1693)

§§ 1693, 1694. Repealed. 1977, No. 33, § 6.

§ 1693. Standards Board for Professional Educators

(a) There is hereby established the Vermont Standards Board for Professional Educators comprising 13 members as follows: seven teachers, two administrators, one public member, one school board member, one representative of educator preparation programs from a public institution of higher education, and one representative of educator preparation programs from a private institution of higher education.

(b) Appointment and qualifications. All members of the Standards Board shall be appointed by the Governor for terms of three years, which shall begin July 1 of the year of appointment. Prior to appointing a member, the Governor shall consult with the State Board of Education, and, as appropriate, the Vermont National Education Association, the Vermont School Boards Association, the Vermont Principals Association, the Vermont Superintendents Association, the Vermont State Colleges, the University of Vermont, and the Association of Vermont Independent Colleges. No person shall be eligible for more than one sequential reappointment. The Governor shall appoint a replacement to fill any vacancy on the Standards Board for the remainder of the term. The Governor shall assure appointments are consistent with the following requirements:

(1) Each member of the Standards Board shall be a citizen of the United States and a resident of Vermont.

(2) The educator members shall be generally representative of elementary and secondary schools and of programs of study taught in Vermont public schools and of administrative positions in Vermont public schools. Teacher members shall hold a license and have at least five years' experience in public school teaching, at least three of which shall have been within the five years preceding appointment. Administrator members shall hold a license and be endorsed as an administrator and have at least five years' experience in public school administration, at least three of which shall have been within the five years preceding appointment.

(3) The school board member shall be a current school district board member or have served on a school district board at some period during the three years prior to appointment.

(4) The public member shall not be a member of the State Board of Education or an employee of any school and shall not derive primary livelihood in the field of public or independent education at any level of responsibility.

(c) Standards Board officers; meetings. The Standards Board shall elect from its members a chair, vice chair, and secretary who shall serve for one year and until their successors are

32

elected and seated. The Board shall meet at the request of the Chair or at such other times and places as the Board may determine. Seven members of the Board shall constitute a quorum for the transaction of business.

(d) Compensation. The Agency shall compensate Standards Board members for the performance of their duties and reimburse them for their actual and necessary expenses in accordance with 32 V.S.A. § 1010.

(e) Administration. The Standards Board shall be attached for administrative purposes to the office. With respect to the Standards Board, the Secretary shall:

(1) With the advice of the Standards Board, employ a director, prepare an annual budget, and administer money appropriated to the Standards Board by the General Assembly. The budget of the Standards Board shall be part of the budget of the Agency.

(2) Employ administrative staff of the office.

(3) Incur such other expenses as the Secretary determines are necessary.

(4) Act as custodian of the records of the Standards Board.

(5) Annually, conduct a training for members of the Standards Board and the hearing panels established in this chapter, which shall include workshops regarding the powers and duties of the Standards Board and the panels and an opportunity for the Standards Board and hearing panel members to discuss the practical application of standards in quasi-judicial proceedings. (Amended 2005, No. 214 (Adj. Sess.), § 2, eff. July 1, 2007; 2013, No. 92 (Adj. Sess.), § 161, eff. Feb. 14, 2014.)

33

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 16 : Education

Chapter 051 : Professional Educators

(Cite as: 16 V.S.A. § 1699)

§ 1699. Reports of alleged unprofessional conduct or incompetence

(a) An individual who has reasonable cause to believe a licensee has engaged in unprofessional conduct or is incompetent may, and a superintendent who has reasonable cause to believe a licensee has engaged in unprofessional conduct or is incompetent shall, submit a written report to the Secretary concerning allegations of unprofessional conduct or incompetence about a licensee. A principal submitting a report under this section shall submit it to the superintendent and may also submit it to the Secretary.

(b) Except as provided in section 1708 of this title, information provided the licensing office under this section shall be confidential.

(c) A person who acts in good faith under the provisions of this section shall not be liable for damages in any civil action. (Added 2005, No. 214 (Adj. Sess.), § 2, eff. July 1, 2007; amended 2013, No. 92 (Adj. Sess.), § 164, eff. Feb. 14, 2014.)

34

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 16 : Education

Chapter 099 : General Policy

(Cite as: 16 V.S.A. § 2901)

§ 2901. Success for all students in the general education environment

(a) It is the policy of the State that each local school district develop and maintain, in consultation with parents, a comprehensive system of education that will 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 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., Individuals with Disabilities Education Act; 29 U.S.C. § 794, Section 504 of the Rehabilitation Act; and 42 U.S.C. § 12101 et seq., Americans with Disabilities Act.

(b) [Repealed.]

(c) No individual entitlement or private right of action is created by this section. (Added 1989, No. 230 (Adj. Sess.), § 4; amended 1995, No. 157 (Adj. Sess.), § 8; 1999, No. 113 (Adj. Sess.), § 9; 2009, No. 44, § 40, eff. May 21, 2009.)

35

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 16 : Education

Chapter 099 : General Policy

(Cite as: 16 V.S.A. § 2902)

§ 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 and to students in need of specialized, individualized behavior supports;

(5) provide all students with a continuum of evidence-based and research-based behavior practices that teach and encourage prosocial skills and behaviors schoolwide;

(6) promote collaboration with families, community supports, and the system of health and human services.

(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.

36

(2) Identify the classroom accommodations, remedial services, and other supports that have been 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.

(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. (Added 1989, No. 230 (Adj. Sess.), § 4; amended 1995, No. 157 (Adj. Sess.), § 9; 1997, No. 87 (Adj. Sess.), § 1; 1999, No. 113 (Adj. Sess.), § 10; 1999, No. 117 (Adj. Sess.), § 2; 2009, No. 44, § 40, eff. May 21, 2009; 2013, No. 92 (Adj. Sess.), §§ 192, 302, eff. Feb. 14, 2014; 2015, No. 48, § 5.)

37