

1 Introduced by Committee on Education

2 Date:

3 Subject: Education; miscellaneous amendments

4 Statement of purpose of bill as introduced: This bill proposes to: (1) amend
5 the education laws to reflect the requirements of the federal Every Student
6 Succeeds Act; (2) make certain clarifying and technical changes; (3) clarify the
7 division of responsibility for conducting criminal record checks on employees
8 and contractors retained by public schools, approved and recognized
9 independent schools, and providers of prekindergarten programs among the
10 Agency of Education, superintendents, headmasters of approved or recognized
11 schools, and the Department for Children and Families, and the process for
12 conducting those background checks; (4) require that a school principal be
13 given notice of his or her contract renewal status earlier than under current law;
14 (5) eliminate the authority of the State Board of Education to propose
15 candidates to the Governor for the office of Secretary of Education; (6) require
16 that two members of the State Board of Education be representatives of
17 approved independent schools; (7) reduce the term of office of the members of
18 the State Board of Education from six years to four years; (8) clarify the State
19 Board of Education's authority to adopt rules for the approval of independent
20 schools; (9) nullify the proposed amendments to the rules governing approval
21 of independent schools initiated by the State Board of Education on

1 November 13, 2015; (10) create a study committee to consider and make
2 recommendations on the criteria to be used by the State Board of Education for
3 the approval of an independent school; (11) provide an appropriation to the
4 Vermont State Colleges for the purpose of evaluating or reevaluating
5 educational and training programs for college credit at no cost or at a reduced
6 cost to the programs being evaluated; (12) exclude prekindergarten students
7 from the student enrollment count used for determining a school district's
8 eligibility for a small school grant; (13) require that one member of the
9 Vermont Standards Board for Professional Educators be a superintendent; and
10 (14) require that the Agency of Education be the sole government agency to
11 issue any required license or endorsement to a speech-language pathologist
12 who is employed by or contracts with, for the purpose of providing speech-
13 language pathology, a supervisory union or public school district in Vermont
14 or an independent school approved for special education purposes.

15 An act relating to making miscellaneous changes to education laws

16 It is hereby enacted by the General Assembly of the State of Vermont:

17 * * * Postsecondary Schools * * *

18 Sec. 1. 16 V.S.A § 176(d) is amended to read:

19 (d) Exemptions. The following are exempt from the requirements of this
20 section except for the requirements of subdivision (c)(1)(C) of this section:

1 * * *

2 (4) Postsecondary schools that are accredited. The following
3 postsecondary institutions are accredited, meet the criteria for exempt status,
4 and are authorized to operate educational programs beyond secondary
5 education, including programs leading to a degree or certificate: Bennington
6 College, ~~Burlington College~~, Champlain College, College of St. Joseph,
7 Goddard College, Green Mountain College, Landmark College, Marlboro
8 College, Middlebury College, New England Culinary Institute, Norwich
9 University, Saint Michael's College, SIT Graduate Institute, Southern Vermont
10 College, Sterling College, Vermont College of Fine Arts, and Vermont Law
11 School. This authorization is provided solely to the extent necessary to ensure
12 institutional compliance with federal financial aid-related regulations, and it
13 does not affect, rescind, or supersede any preexisting authorizations, charters,
14 or other forms of recognition or authorization.

15 * * *

16 * * * Educational Opportunities * * *

17 Sec. 2. 16 V.S.A § 165(b) is amended to read:

18 (b) ~~Every two years~~ Annually, the Secretary shall determine whether
19 students in each Vermont public school are provided educational opportunities
20 substantially equal to those provided in other public schools. If the Secretary
21 determines that a school is not meeting the education quality standards listed in

1 subsection (a) of this section or that the school is making insufficient progress
2 in improving student performance in relation to the standards for student
3 performance set forth in subdivision 164(9) of this title, he or she shall
4 describe in writing actions that a district must take in order to meet either or
5 both sets of standard and shall provide technical assistance to the school. If the
6 school fails to meet the standards or make sufficient progress ~~by the end of the~~
7 ~~next two year period~~ within two years of the determination, the Secretary shall
8 recommend to the State Board one or more of the following actions:

9 * * *

10 * * * Local Education Agency * * *

11 Sec. 3. 16 V.S.A. § 563 is amended to read:

12 § 563. POWERS OF SCHOOL BOARDS; FORM OF VOTE

13 The school board of a school district, in addition to other duties and
14 authority specifically assigned by law:

15 * * *

16 (26) ~~Shall carry out the duties of a local education agency, as that term~~
17 ~~is defined in 20 U.S.C. § 7801(26), for purposes of determining student~~
18 ~~performance and application of consequences for failure to meet standards and~~
19 ~~for provision of compensatory and remedial services pursuant to 20 U.S.C.~~

20 §§ 6311-6318. [Repealed.]

21 * * *

1 is in the student’s best interest to attend the school of origin, the Commissioner
2 for Children and Families shall make the final decision. As used in this
3 section, “school of origin” means the school in which the child was enrolled at
4 the time of placement into custody of the Commissioner for Children and
5 Families, or in the case of a student already in the custody of the
6 Commissioner for Children and Families, the school the student most recently
7 attended.

8 (2) If a student is a State-placed student pursuant to subdivision
9 11(a)(28)(D)(i)(I) of this title, then the Department for Children and Families
10 shall assume responsibility ~~be responsible~~ for the student’s transportation to
11 and from school, unless the receiving district chooses to provide transportation.

12 (3) A State-placed student not in the legal custody of the Commissioner
13 for Children and Families, other than one placed in a 24-hour residential
14 facility and except as otherwise provided in this subsection, shall be educated
15 by the school district in which the student is living unless an alternative plan or
16 facility for the education of the student is agreed upon by the Secretary. In the
17 case of dispute as to where a State-placed student is living, the Secretary shall
18 conduct a hearing to determine which school district is responsible for
19 educating the student. The Secretary’s decision shall be final.

20 ~~(3)~~(4) A student who is in temporary legal custody pursuant to
21 33 V.S.A. § 5308(b)(3) or (4) and is a State-placed student pursuant to

1 subdivision 11(a)(28)(D)(i)(II) of this title, shall be enrolled, at the temporary
2 legal custodian's discretion, in the district in which the student's parents reside,
3 the district in which either parent resides if the parents live in different
4 districts, the district in which the student's legal guardian resides, or the district
5 in which the temporary legal custodian resides. If the student enrolls in the
6 district in which the temporary legal custodian resides, the district shall
7 provide transportation in the same manner and to the same extent it is provided
8 to other students in the district. In all other cases, the temporary legal
9 custodian is responsible for the student's transportation to and from school,
10 unless the receiving district chooses to provide transportation.

11 ~~(4)~~(5) If a student who had been a State-placed student pursuant to
12 subdivision 11(a)(28) of this title is returned to live in the district in which one
13 or more of the student's parents or legal guardians reside, then, at the request
14 of the student's parent or legal guardian, the Secretary may order the student to
15 continue his or her enrollment for the remainder of the academic year in the
16 district in which the student resided prior to returning to the parent's or
17 guardian's district and the student will continue to be funded as a State-placed
18 student. Unless the receiving district chooses to provide transportation:

19 * * *

20 (e) For the purposes of this title, the legal residence or residence of a child
21 of homeless parents is ~~where the child temporarily resides~~ the child's school

1 of origin, as defined in subdivision (c)(1) of this section, unless the parents
2 and another school district agree that the child's attendance in school in that
3 school district will be in the best interests of the child in that continuity of
4 education will be provided and transportation will not be unduly burdensome
5 to the school district. A "child of homeless parents" means a child whose
6 parents:

7 * * *

8 * * * Early College * * *

9 Sec. 5. REPEAL

10 16 V.S.A § 4011(e) (early college) is repealed.

11 Sec. 6. 16 V.S.A § 946 is added to read:

12 § 946. EARLY COLLEGE

13 (a) For each grade 12 Vermont student enrolled, the Secretary shall pay an
14 amount equal to 87 percent of the base education amount to:

15 (1) the Vermont Academy of Science and Technology (VAST); and

16 (2) an early college program other than the VAST program that is
17 developed and operated or overseen by the University of Vermont, by one of
18 the Vermont State Colleges, or by an accredited private postsecondary school
19 located in Vermont and that is approved for operation by the Secretary;
20 provided, however, when making a payment under this subdivision (2), the
21 Secretary shall not pay more than the tuition charged by the institution.

1 **(b) The Secretary shall make the payment pursuant to subsection (a) of this**
2 **section directly to the postsecondary institution, which shall accept the amount**
3 **as full payment of the student’s tuition.**

4 **(c) A student on whose behalf the Secretary makes a payment pursuant to**
5 **subsection (a) of this subsection:**

6 **(1) shall be enrolled as a full-time student in the institution receiving the**
7 **payment for the academic year for which payment is made;**

8 **(2) shall not be enrolled concurrently in a secondary school operated by**
9 **the student’s district of residence or to which the district pays tuition on the**
10 **student’s behalf; and**

11 **(3) shall not be included in the average daily membership of any school**
12 **district for the academic year for which payment is made; provided, however,**
13 **that if more than five percent of the grade 12 students residing in a district**
14 **enroll in an early college program, then the district may include the number of**
15 **students in excess of five percent in its average daily membership; but further**
16 **provided that a student in grade 12 enrolled in a college program shall be**
17 **included in the percentage calculation only if, for the previous academic year,**
18 **the student was enrolled in a school maintained by the district or was a student**
19 **for whom the district paid tuition to a public or approved independent school.**

1 (d) A postsecondary institution shall not accept a student into an early
2 college program unless enrollment in an early college program was an element
3 of the student’s personalized learning plan.

4 Sec. 7. REPEAL

5 16 V.S.A § 4011a (early college program; report; appropriations) is
6 repealed.

7 Sec. 8. 16 V.S.A § 947 is added to read:

8 § 947. EARLY COLLEGE PROGRAM; REPORT; APPROPRIATION

9 (a) Notwithstanding 2 V.S.A. § 20(d), any postsecondary institution
10 receiving funds pursuant to section 946 of this title shall report annually in
11 January to the Senate and House Committees on Education regarding the level
12 of participation in the institution’s early college program, the success in
13 achieving the stated goals of the program to enhance secondary students’
14 educational experiences and prepare them for success in college and beyond,
15 and the specific results for participating students relating to programmatic
16 goals.

17 (b) In the budget submitted annually to the General Assembly pursuant to
18 32 V.S.A. chapter 5, the Governor shall include the recommended
19 appropriation for all early college programs to be funded pursuant to section
20 946 of this title, including the VAST program, as a distinct amount.

1 * * * Advisory Council on Special Education * * *

2 Sec. 9. 16 V.S.A § 2945(c) is amended to read:

3 (c) The members of the Council who are employees of the State shall
4 receive no additional compensation for their services, but actual and necessary
5 expenses shall be allowed State employees, and shall be charged to their
6 departments or institutions. The members of the Council who are not
7 employees of the State shall receive a per diem compensation of \$30.00 per
8 day as provided under 32 V.S.A. § 1010 for each day of official business and
9 reimbursement for actual and necessary expenses at the rate allowed State
10 employees.

11 * * * Dual Enrollment * * *

12 Sec. 10. 16 V.S.A § 944(b)(2) is amended to read:

13 (2) An eligible student may enroll in up to two dual enrollment courses
14 prior to completion of secondary school for which neither the student nor
15 parent shall be required to pay tuition, laboratory fees, or other costs and fees
16 directly related to participating in the course, other than travel costs. A student
17 may enroll in courses offered while secondary school is in session and during
18 the summer.

*** Criminal Record Checks ***

Sec. 11. 16 V.S.A § 251 is amended to read:

§ 251. POLICY

(a) It is the policy of the State of Vermont to use criminal record checks to deter abuse and exploitation of school children and to do so in a manner that protects, as much as is practicable, the privacy of those subject to such checks.

Accordingly, every person who has contact with students in a public school, an approved or recognized independent school, or a prekindergarten program, whether as an operator, employee, or contractor, shall undergo a fingerprint-supported FBI criminal record check prior to having any unsupervised contact with children.

(b) With respect to licensed teachers in any setting, the Agency of Education shall conduct a record check at the time the person is licensed to teach in the State and at the time the person's license is renewed following the requirements in section 251a of this title.

(c) Notwithstanding any other provision of law, the fingerprint-supported criminal record check shall be initiated for kindergarten through grade 12 educational programs offered by a public school or an approved or recognized independent school as follows:

(1) If the person is not a Vermont licensed teacher but is employed by or under contract to a public school, the superintendent for the district shall

1 conduct the record check at the time of hire pursuant to sections 251a and 255
2 of this title.

3 (2) If the person is not a Vermont licensed teacher and is employed by
4 or under contract to an approved or recognized independent school, the
5 headmaster of that school shall conduct the record check pursuant to sections
6 251a and 255 of this title.

7 (d) The fingerprint-supported criminal record check shall be initiated for a
8 prekindergarten program prequalified pursuant to section 829 of this title or in
9 partnership with a school district pursuant to subdivision 829(e)(1) of this title
10 as follows:

11 (1) If the person is not a Vermont licensed teacher but is employed by or
12 under contract to a public school, with the exception of contractors covered in
13 subdivisions (2) and (3) of this subsection, the superintendent of the district
14 shall request the record check pursuant to sections 251a and 255 of this title.

15 (2) If the person is not a Vermont licensed teacher but is employed by or
16 under contract to a recognized or approved independent school, the headmaster
17 shall request the record check pursuant to sections 251a and 255 of this title.

18 (3) If the person is not a Vermont licensed teacher and is not employed
19 by or under contract to a recognized or approved independent school and is
20 employed by a private program registered or licensed by the Child
21 Development Division, the Department for Children and Families shall request

1 the record check pursuant to 33 V.S.A. § 152 and rules adopted by the
2 Department for Children and Families.

3 (e) The Agency of Education, Department for Children and Families,
4 superintendents, and headmasters shall maintain a registry accessible only to
5 the other parties named in this subsection for the purpose of sharing
6 information about whether a person has a qualifying criminal record check
7 clearance. Each of the parties named in this subsection shall accept qualifying
8 criminal background check clearances from the other named parties.

9 (f) An individual required to submit to a criminal record check by the
10 Agency of Education, Child Development Division of the Department for
11 Children and Families, superintendent, or headmaster shall not be required to
12 undergo fingerprinting for a criminal record check if the individual underwent
13 a qualifying background check pursuant to this section within the preceding
14 five years, subject to the limitations in subsection 251a(d) of this title.

15 (g) The requirements of this section shall not apply with respect to a school
16 district's flexible pathways partners in any program established under
17 chapter 23, subchapter 2 of this title, including any student placement for
18 applied or work-based learning opportunities.

1 Sec. 12. 16 V.S.A. § 251a is added to read:

2 § 251a. BACKGROUND CHECKS AND ACCESS TO RECORDS

3 (a) Pursuant to section 251 of this title, criminal background checks
4 conducted by the Agency of Education, superintendents, and headmasters shall
5 include:

6 (1) a fingerprint-supported Vermont Crime Information Center and FBI
7 criminal record check;

8 (2) a search of the National Sex Offender Registry established under the
9 Adam Walsh Child Protection and Safety Act of 2006;

10 (3) a search of the Vermont Child Protection Registry;

11 (4) a search of the Vermont Adult Abuse Registry;

12 (5) a search of the child abuse and neglect registries, repositories, or
13 databases, if available, in each state where the person resided during the
14 preceding five years; and

15 (6) a search of the Vermont Case Access System.

16 (b) The Agency of Education shall deny licensure and superintendents and
17 headmasters shall deny employment or refuse to contract with a person:

18 (1) who is required to complete a background check and who refuses or
19 knowingly makes a materially false statement in connection with such
20 background check;

- 1 (2) is registered, or is required to be registered, on a state sex offender
2 registry or repository or the National Sex Offender Registry;
- 3 (3) is convicted of a felony involving:
- 4 (A) murder;
- 5 (B) child abuse or neglect;
- 6 (C) a crime against children, including sexual activity or child
7 pornography;
- 8 (D) spousal abuse;
- 9 (E) a crime involving rape or sexual assault;
- 10 (F) kidnapping;
- 11 (G) arson;
- 12 (H) physical assault or battery; or
- 13 (I) a drug-related offense committed during the preceding five years;
- 14 (4) is convicted of a misdemeanor offense against a child or another
15 person involving:
- 16 (A) violence;
- 17 (B) child abuse or neglect;
- 18 (C) child endangerment;
- 19 (D) sexual assault or activity;
- 20 (E) child pornography; or
- 21 (F) other violent bodily injury;

1 (5) is convicted of fraud;

2 (6) is convicted of embezzlement;

3 (7) has been found by a court to have abused, neglected, or mistreated a
4 child, elderly or disabled person, or animal;

5 (8) has had a report of abuse or neglect substantiated against them under
6 33 V.S.A. chapters 49 or 69; or

7 (9) has had a report of child abuse or neglect that is substantiated against
8 them in another state.

9 (c) The Agency of Education, superintendents, and headmasters, in their
10 sole discretion, may allow for a waiver of the disqualifying convictions and
11 findings listed in this subsection. The burden of proof shall be on the person
12 requesting the waiver to prove rehabilitation and that he or she is suitable for
13 licensure or employment. Waivers may be given for:

14 (1) felony convictions for drug-related offenses under subdivision
15 (b)(3)(I) of this section;

16 (2) misdemeanor convictions of bodily injury under subdivision
17 (b)(4)(F) of this section;

18 (3) convictions of fraud under subdivision (b)(5) of this section; or

19 (4) convictions of embezzlement under subdivision (b)(6) of this
20 section.

1 (d) A person subject to fingerprinting and background checks by a
2 superintendent or headmaster, or by the Child Development Division of the
3 Department for Children and Families pursuant to section 251 of this title, shall
4 not be required to submit to a criminal record check if the person underwent a
5 qualifying background check pursuant to section 251 of this title within the
6 preceding five years and the person has not been separated from employment
7 by a public school, recognized or approved independent school, or a private
8 child care provider licensed by the Child Development Division in Vermont
9 for more than 180 consecutive days since the previous qualifying criminal
10 record check.

11 (e) Criminal background checks required to be initiated by a superintendent
12 or headmaster shall be requested before a person begins working in a public or
13 recognized or approved independent school and the person must be supervised
14 at all times by an individual with a qualifying background check until the
15 person has been cleared.

16 (f) The Agency of Education, superintendents, and headmasters shall take
17 all steps necessary to complete criminal record checks within 45 days after a
18 request has been submitted.

19 (g) Criminal record check results for any person shall not be publicly
20 released, except that aggregated data by crime from background check results
21 may be released as long as such data are not personally identifiable. Pursuant

1 to subsection 251(e) of this title, the Agency of Education, Department for
2 Children and Families, superintendents, and headmasters shall share among
3 each other criminal record check clearance information, only if necessary for
4 the requesting entity to perform its lawful duties. The subject of the
5 background check is entitled to a copy of the background check.

6 (h) Any person subject to a criminal record check pursuant to this section
7 may challenge the accuracy of the record by appealing to the Vermont Crime
8 Information Center pursuant to rules adopted by the Commissioner of Public
9 Safety.

10 Sec. 13. 16 V.S.A § 255 is amended to read:

11 § 255. PUBLIC AND INDEPENDENT SCHOOL EMPLOYEES;

12 CONTRACTORS

13 (a) Superintendents, headmasters of recognized or approved independent
14 schools, and their contractors shall request criminal record information for the
15 following:

16 (1) ~~the~~ any person, other than a teacher licensed under chapter 51 of this
17 title or a person cleared by the Department for Children and Families pursuant
18 to section 251 of this title, a superintendent or headmaster is prepared to
19 employ or recommend for any full-time, part-time, or temporary employment;

20 (2) any person, other than a teacher licensed under chapter 51 of this
21 title or a person cleared by the Department for Children and Families pursuant

1 to section 251 of this title directly under contract to an independent school or
2 school district who may have unsupervised contact with school children;

3 (3) any employee of a contractor under contract to an independent
4 school or school district, other than a teacher licensed under chapter 51 of this
5 title or a person cleared by the Department for Children and Families pursuant
6 to section 251 of this title who is in a position that may result in unsupervised
7 contact with school children;

8 (4) any student working toward a degree in teaching who is a student
9 teacher in a school within the superintendent's or headmaster's jurisdiction.

10 (b) After signing a user agreement, a superintendent or a headmaster shall
11 make a request directly to the Vermont Crime Information Center pursuant to
12 section 251a of this title. A contractor shall make a request through a
13 superintendent or headmaster.

14 (c) A request made under subsection (b) of this section shall be
15 accompanied by a set of the person's fingerprints and a fee established by the
16 Vermont Crime Information Center that shall reflect the cost of obtaining the
17 record from the FBI. The fee shall be paid in accordance with adopted school
18 board policy.

19 (d)(1) Upon completion of a criminal record check, the Vermont Crime
20 Information Center shall send to the superintendent a notice that no record
21 exists or, if a record exists, a copy of any criminal record.

1 (2) Upon completion of a criminal record check, the Vermont Crime
2 Information Center shall send to the headmaster a notice that no record exists
3 or, if a record exists:

4 (A) A copy of Vermont criminal convictions.

5 (B) A notice of any criminal record that is located in either another
6 state repository or FBI records, but not a record of the specific convictions.

7 However, if there is a record ~~relating to any crimes of a sexual nature involving~~
8 ~~children~~, the Vermont Crime Information Center shall send this record to the
9 Secretary who shall notify the headmaster in writing, with a copy to the person
10 about whom the request was made, that the record includes one or more
11 convictions for a crime ~~of a sexual nature involving children~~ specified in
12 subsection 251a(b) of this title or includes a report as specified in that
13 subsection.

14 (e) Information received by a superintendent or headmaster under
15 subsection (d) of this section shall be forwarded as follows:

16 (1) In the case of a request other than one made on behalf of a
17 contractor, the superintendent or headmaster shall forward a copy of the
18 information to the person about whom the request was made.

19 (2) In the case of a request made on behalf of a contractor, the
20 superintendent or headmaster shall inform the contractor in writing either that
21 no record exists or that a record does exist but shall not reveal the content of

1 the record to the contractor. The contractor shall then forward a copy of the
2 information received to the person about whom the request was made.

3 (f) Information sent to a person by the Secretary, a headmaster, a
4 superintendent, or a contractor under subsection (e) of this section shall be
5 accompanied by a written notice of the person's rights under subsection ~~(g)~~
6 251a(h) of this section ~~title~~, a description of the policy regarding maintenance
7 and destruction of records, and the person's right to request that the notice of
8 no record or record be maintained for purposes of using it to comply with
9 future criminal record check requests pursuant to section 256 of this title.

10 ~~(g)(1) Following notice that a headmaster was notified that a criminal~~
11 ~~record which is located in either another state repository or FBI records exists,~~
12 ~~a person may:~~

13 ~~(A) sign a form authorizing the Vermont Crime Information Center~~
14 ~~to release a detailed copy of the criminal record to the person; or~~

15 ~~(B) decline or resign employment.~~

16 ~~(2) Any person subject to a criminal record check pursuant to this~~
17 ~~section may challenge the accuracy of the record by appealing to the Vermont~~
18 ~~Crime Information Center pursuant to rules adopted by the Commissioner of~~
19 ~~Public Safety.~~

20 ~~(h) A superintendent or headmaster shall request and obtain information~~
21 ~~from the Child Protection Registry maintained by the Department for Children~~

1 ~~and Families and from the Vulnerable Adult Abuse, Neglect, and Exploitation~~
2 ~~Registry maintained by the Department of Disabilities, Aging, and Independent~~
3 ~~Living (collectively, the Registries) for any person for whom a criminal record~~
4 ~~check is required under subsection (a) of this section. The Department for~~
5 ~~Children and Families and the Department of Disabilities, Aging, and~~
6 ~~Independent Living shall adopt rules governing the process for obtaining~~
7 ~~information from the Registries and for disseminating and maintaining records~~
8 ~~of that information under this subsection.~~

9 ~~(i) A person convicted of a sex offense that requires registration pursuant to~~
10 ~~13 V.S.A. chapter 167, subchapter 3 shall not be eligible for employment~~
11 ~~under this section.~~

12 ~~(j) The board of trustees of a recognized or approved independent school~~
13 ~~shall request a criminal record check and a check of the Registries pursuant to~~
14 ~~the provisions of this section and section 251a of this title prior to offering~~
15 ~~employment to a headmaster candidate.~~

16 ~~(h) The requirements of this section shall not apply with respect to a school~~
17 ~~district's flexible pathways partners in any program established under~~
18 ~~chapter 23, subchapter 2 of this title, including any student placement for~~
19 ~~applied or work-based learning opportunities.~~

1 Sec. 14. 33 V.S.A. § 152 is amended to read:

2 § 152. ACCESS TO RECORDS

3 (a) The Commissioner may obtain from the Vermont Crime Information
4 Center the record of convictions of any person to the extent required by law or
5 the Commissioner has determined by rule that such information is necessary to
6 regulate a facility or individual subject to regulation by the Department or to
7 carry out the Department's child protection obligations under chapters 49-59 of
8 this title. The Commissioner shall first notify the person whose record is being
9 requested.

10 (b) The owner or operator of a facility licensed or registered by the
11 Department may ask the Commissioner for the record of convictions and the
12 record of substantiated reports of child abuse of a current employee or a person
13 to whom the owner or operator has given a conditional offer of employment.
14 The request shall be in writing and shall be accompanied by a release signed
15 by the current or prospective employee. The owner or operator shall inform
16 the current or prospective employee that he or she has the right to appeal the
17 accuracy and completeness of the record. Upon receiving a request under this
18 subsection, the Commissioner shall ask the Vermont Crime Information Center
19 for the record of convictions of the current or prospective employee.

20 (c) If the person has a record of convictions, the Commissioner shall
21 provide the owner or operator with a copy of the record, unless otherwise

1 prohibited by law. If the person has a record of substantiated reports of child
2 abuse, the Commissioner shall inform the requesting owner or operator that
3 such record exists.

4 (d) Information released to an owner or operator under this section shall not
5 be released or disclosed by the owner or operator to any other person. Release
6 or disclosure of such information by an owner or operator may result in the
7 loss of the license or registration.

8 (e) As used in this section:

9 (1) “Commissioner” means the Commissioner for Children and Families
10 or the Commissioner’s designee.

11 (2) “Employee” shall include volunteers.

12 (3) “Substantiated reports of child abuse” means reports of child abuse
13 substantiated under section 4915 of this title.

14 (4) “Volunteer” means an individual who, without compensation,
15 provides services through a public or private organization.

16 (f) The Commissioner shall accept clearance of criminal record checks
17 conducted under 16 V.S.A. §§ 251 and 251a by the Agency of Education or a
18 superintendent of a school district relating to individuals in facilities licensed
19 or registered by the Department.

1 * * * Renewal of Principal's Contracts * * *

2 Sec.15. 16 V.S.A. § 243(c) is amended to read:

3 (c) Renewal and nonrenewal. A principal who has been continuously
4 employed for more than two years in the same position has the right either to
5 have his or her contract renewed, or to receive written notice of nonrenewal ~~at~~
6 ~~least 90 days before~~ on or before February 1 of the year in which the existing
7 contract expires. Nonrenewal may be based upon elimination of the position,
8 performance deficiencies, or other reasons. The written notice shall recite the
9 grounds for nonrenewal. If nonrenewal is based on performance deficiencies,
10 the written notice shall be accompanied by an evaluation performed by the
11 superintendent. At its discretion, the school board may allow a period of
12 remediation of performance deficiencies prior to issuance of the written notice.
13 After receiving such a notice, the principal may request in writing, and shall be
14 granted, a meeting with the school board. Such request shall be delivered
15 within 15 days of delivery of notice of nonrenewal, and the meeting shall be
16 held within 15 days of delivery of the request for a meeting. At the meeting,
17 the school board shall explain its position, and the principal shall be allowed to
18 respond. The principal and any member of the board may present written
19 information or oral information through statements of others, and the principal
20 and the board may be represented by counsel. The meeting shall be in
21 executive session unless both parties agree in writing that it be open to the

1 public. After the meeting, the school board shall decide whether or not to offer
2 the principal an opportunity to renew his or her contract. The school board
3 shall issue its decision in writing within five days. The decision of the school
4 board shall be final.

5 * * * State Board of Education * * *

6 Sec. 16. 3 V.S.A. § 2702 is amended to read:

7 § 2702. SECRETARY OF EDUCATION

8 (a) With the advice and consent of the Senate, the Governor shall appoint a
9 Secretary of Education ~~from among no fewer than three candidates proposed~~
10 ~~by the State Board of Education.~~ The Secretary shall serve at the pleasure of
11 the Governor.

12 (b) The Secretary shall report directly to the Governor and shall be a
13 member of the Governor's Cabinet.

14 (c) At the time of appointment, the Secretary shall have expertise in
15 education management and policy and demonstrated leadership and
16 management abilities.

17 Sec. 17. 16 V.S.A. § 161 is amended to read:

18 § 161. STATE BOARD OF EDUCATION; APPOINTMENT OF

19 MEMBERS; TERM; VACANCY

20 The State Board shall consist of ten members. Two of the members shall be
21 secondary students, one of whom shall be a full member and the other of

1 whom shall be a junior member who may not vote. Two of the members shall
2 be representatives of independent schools. All members shall be appointed by
3 the Governor with the advice and consent of the Senate. In the appointment of
4 the nonstudent members, priority shall be given to the selection of persons with
5 a demonstrated commitment to ensuring quality education for Vermont
6 students. To the extent possible, the members shall represent geographically
7 diverse areas of the State. The Secretary shall serve on the State Board as a
8 nonvoting member.

9 (1) Upon the expiration of the respective terms of those members of the
10 Board previously appointed, excluding the student members, the Governor
11 shall, biennially in the month of February with the advice and consent of the
12 Senate, appoint members ~~thereto~~ to the Board for terms of ~~six~~ four years. The
13 terms shall begin March 1 of the year in which the appointments are made. A
14 member serving a full term of six years shall not be eligible for reappointment
15 for successive terms.

16 (2) In the event of any vacancy occurring in the membership of the
17 Board, the Governor shall fill the vacancy with a qualified person whose
18 appointment shall be for the unexpired portion of the term.

19 (3) Biennially, the Board shall choose a member of the Board to be its
20 chair.

1 (4) Annually, using an application process that is open and accessible to
2 all eligible students, the Governor shall appoint a Vermont secondary school
3 student who will continue to be a secondary student for at least two years
4 following taking office, to serve on the State Board for two years, beginning on
5 July 1 of the year of appointment. The student member shall not vote during
6 the first year and shall be a full and voting member during the second year of
7 his or her term.

8 **Sec. 18. TRANSITION; STATE BOARD MEMBERSHIP**

9 The Governor shall appoint two representatives of independent schools as
10 members of the State Board of Education under Sec. 17 of this act upon the
11 next expiration of the respective terms of those members of the Board
12 previously appointed, excluding the student members, following the effective
13 date of this section.

14 **Sec. 19. 16 V.S.A. § 164 is amended to read:**

15 **§ 164. STATE BOARD; GENERAL POWERS AND DUTIES**

16 The State Board shall evaluate education policy proposals, including timely
17 evaluation of policies presented by the Governor and Secretary; engage local
18 school board members and the broader education community; and establish
19 and advance education policy for the State of Vermont. In addition to other
20 specified duties, the Board shall:

21 * * *

1 Sec. 21. APPROVED INDEPENDENT SCHOOLS STUDY COMMITTEE

2 (a) Creation. There is created an Approved Independent Schools Study
3 Committee to consider and make recommendations on the criteria to be used
4 by the State Board of Education for designation as an “approved” independent
5 school.

6 (b) Membership. The Committee shall be composed of the following 10
7 members:

8 (1) two current members of the House of Representatives, not from the
9 same political party, who shall be appointed by the Speaker of the House;

10 (2) two current members of the Senate, not from the same political
11 party, who shall be appointed by the Committee on Committees;

12 (3) the Secretary of Education or designee;

13 (4) the Executive Director of the Vermont Superintendent’s Association
14 or designee;

15 (5) the Executive Director of the Vermont School Boards Association or
16 designee;

17 (6) the Executive Director of the Vermont Independent Schools
18 Association or designee; and

19 (7) two representative of approved independent schools, who shall be
20 chosen by the Executive Director of the Vermont Independent Schools.

1 (c) Powers and duties. The Committee shall consider and make
2 recommendations on the criteria to be used by the State Board of Education for
3 designation as an “approved” independent school, including the following
4 criteria:

5 (1) the school’s enrollment policy and any limitation on a student’s
6 ability to enroll;

7 (2) whether the school should be required to offer special education
8 services, and if so, which categories of these services; and

9 (3) the scope and nature of financial information that should be required
10 to be reported by the school to the State Board or Agency of Education.

11 (d) Assistance. The Committee shall have the administrative, technical,
12 and legal assistance of the Agency of Education.

13 (e) Report. On or before January 15, 2018, the Committee shall submit a
14 written report to the House and Senate Committees on Education with its
15 findings and any recommendations.

16 (f) Meetings.

17 (1) The Secretary of Education shall call the first meeting of the
18 Committee to occur on or before May 30, 2017.

19 (2) The Committee shall select a chair from among its members at the
20 first meeting.

21 (3) A majority of the membership shall constitute a quorum.

1 (4) The Committee shall cease to exist on January 16, 2018.

2 (g) Reimbursement.

3 (1) For attendance at meetings during adjournment of the General
4 Assembly, legislative members of the Committee shall be entitled to per diem
5 compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for
6 no more than seven meetings.

7 (2) Other members of the Committee who are not employees of the State
8 of Vermont and who are not otherwise compensated or reimbursed for their
9 attendance shall be entitled to per diem compensation and reimbursement of
10 expenses pursuant to 32 V.S.A. § 1010 for no more than seven meetings.

11 * * * Educational and Training Programs for College Credit * * *

12 Sec. 22. APPROPRIATION TO THE VERMONT STATE COLLEGES
13 TO EXPAND EDUCATION AND TRAINING EVALUATION
14 SERVICES PROGRAM

15 The sum of \$40,000.00 is appropriated from the Next Generation Initiative
16 Fund created pursuant to 16 V.S.A. § 2887 to the Vermont State Colleges for
17 the purpose of providing funding for the Colleges' Education and Training
18 Evaluation Services Program. The Vermont State Colleges shall use the
19 appropriation to evaluate or reevaluate educational and training programs for
20 college credit at no cost or at a reduced cost to the programs being evaluated.
21 The Vermont State Colleges shall identify training programs in the skilled

1 trades, including the plumbing and electrical trades, to receive these evaluation
2 services. The Vermont State Colleges shall, on or before January 15, 2018,
3 issue a report to the House and Senate Committees on Education describing
4 how the funds appropriated pursuant to this section have been spent, how any
5 remaining funds appropriated pursuant to this section will be spent, and the
6 number and nature of the programs evaluated or reevaluated and the results of
7 the evaluations.

8 * * * Student Enrollment; Small School Grant * * *

9 Sec. 23. 16 V.S.A. § 4015 is amended to read:

10 § 4015. SMALL SCHOOL SUPPORT

11 (a) In this section:

12 (1) “Eligible school district” means a school district that operates at least
13 one school; and

14 (A) has a two-year average combined enrollment of fewer than 100
15 students in all the schools operated by the district; or

16 (B) has an average grade size of 20 or fewer.

17 (2) “Enrollment” means the number of students who are enrolled in a
18 school operated by the district on October 1. A student shall be counted as one
19 whether the student is enrolled as a full-time or part-time student. Students
20 enrolled in prekindergarten programs shall not be counted.

1 **Sec. 25. TRANSITIONAL PROVISION**

2 A superintendent shall be appointed to the Vermont Standards Board for
3 Professional Educators upon the next expiration of the term of a member who
4 is serving on the Board as an administrator.

5 * * * Speech-Language Pathologists * * *

6 Sec. 26. 26 V.S.A. § 4451 is amended to read:

7 **§ 4451. DEFINITIONS**

8 As used in this chapter:

9 * * *

10 (5) “School-based speech-language pathologist” means a speech-
11 language pathologist who is employed by or contracts with, for the purpose of
12 providing speech-language pathology, a supervisory union or public school
13 district in Vermont or an independent school approved for special education
14 purposes.

15 ~~(5)~~(6) “Secretary” means the Secretary of State.

16 ~~(6)~~(7) “Speech-language pathologist” means a person licensed to
17 practice speech-language pathology under this chapter, but shall not include a
18 school-based speech-language pathologist.

19 ~~(7)~~(8) “Speech-language pathology” means the application of principles,
20 methods, and procedures related to the development and disorders of human

1 communication, which include any and all conditions that impede the normal
2 process of human communication.

3 Sec. 27. 26 V.S.A. § 4454 is amended to read:

4 § 4454. CONSTRUCTION

5 (a) This chapter shall not be construed to limit or restrict in any way the
6 right of a practitioner of another occupation that is regulated by this State from
7 performing services within the scope of his or her professional practice.

8 (b) This chapter shall not be construed to apply to a school-based speech-
9 language pathologist, even if the school-based speech-language pathologist
10 also provides speech-language pathology outside a school environment. A
11 school-based speech-language pathologist shall be subject to the licensing,
12 training, and professional standards provisions of 16 V.S.A. chapter 51.

13 Sec. 28. TRANSITIONAL PROVISION

14 (a)(1) As of September 1, 2017, any school-based speech-language
15 pathologist licensed and in good standing with the Secretary of State's Office
16 of Professional Regulation shall be deemed licensed by the Agency of
17 Education.

18 (2) The Agency of Education shall reissue initial speech-language
19 pathologist licenses at no charge after September 1, 2017 to school-based
20 speech-language pathologist and shall establish a single expiration and renewal
21 date for all of those licensees.

