

## MEMORANDUM

TO: Legislative Committee on Administrative Rules  
FROM: Oliver Olsen, Chair, Vermont State Board of Education  
SUBJECT: Request for Extension of Time in 3 V.S.A. § 843  
DATE: April 1, 2022

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### **Proposed Rule 2200, “Independent School Program Approval”**

I am requesting that LCAR grant a brief extension of the eight-month rulemaking timeline for Rule 2200. The State Board received significant public comment and engaged in many rounds of robust consultation with stakeholders and the Act 173 Advisory Group<sup>1</sup> to draft amendments responding to public comment, which caused the rulemaking to go beyond the eight-month limit by approximately two weeks. The deadline for adoption of these rules was March 16, 2022.

The State Board of Education was directed in Act 173 of 2018, further amended by Act 72 of 2019 (Sec. E.502.2), and further amended by Act 112 of 2020, to amend its rules governing the approval of independent schools. The State Board was specifically directed to initiate rulemaking no later than June 30, 2021, and it complied by filing with ICAR on June 28, 2021. The proposed rule was filed with the Secretary of State on July 16, 2021.

The State Board held four public hearings on the draft rule and received written comment from several sources. Many public comments focused on an incredibly complex rule that had been originally proposed by the Act 173 Advisory Group. Because these comments went right to the heart of the changes originally drafted by the Act 173 Advisory Group, the State Board invited it to further consider the draft rule as filed with ICAR and inform the State Board whether the rule should be amended in the final proposal. A subgroup of the Act 173 Advisory Group recommended several changes but these recommendations had not been considered by the full Act 173 Advisory Group before the State Board’s monthly meeting on February 16, 2021. Several members of the Act 173 Advisory Group appeared at the February 16th State Board meeting and requested that the State Board postpone its planned vote on the final proposed rule in order to allow the Act 173 Advisory Group to convene a special meeting to consider the changes recommended by the subgroup. The State Board agreed to postpone its vote and to convene a special meeting, which was held on March 9, 2021, at which the State Board gave its final approval to the Rule. In the intervening three weeks, the Act 173 Advisory Group met in a special session, at which it endorsed the text that has been included as part of the final proposed rule.

The State Board had calculated its deadline to file with LCAR as the March 15 filing day associated with the March 31 LCAR meeting, and so filed the final proposed rule with LCAR on

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<sup>1</sup> The Act 173 Advisory Group was created to, among other duties, “advise the State Board of Education on the development of proposed rules” to implement the Act. (Act 173 of 2018, Sec. 9)

March 15. Nonetheless, the State Board has regrettably run over the eight-month deadline, and so I am respectfully requesting an extension of the rulemaking timeline to allow the State Board to adopt the proposed Rule 2200 “Independent School Program Approval,” following LCAR approval. The State Board does not have a meeting scheduled prior to the April 7 LCAR meeting; I am submitting this request in my capacity as Chair.