



# *K-12 Schools*

More Students Attending Vermont  
Approved Independent [Private]  
Schools and Fewer Attending Out-of-  
State Schools at Public Expense



## Mission Statement

The mission of the Auditor's Office is to hold state government accountable.

This means ensuring that taxpayer funds are used effectively and efficiently, and that we foster the prevention of waste, fraud, and abuse.

This report is a work of the Office of the State Auditor, State of Vermont, and is not subject to copyright protection in the United States. It may be reproduced and distributed in its entirety without further permission from the State of Vermont or the Office of the State Auditor. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately. Please contact the Office of the State Auditor if you have questions about reproducing this report

Dear Colleagues,

This is the second of two reports exploring issues related to students that do not attend Vermont public schools. In school year 2018/2019, over 3,400 publicly funded students were enrolled in Vermont private schools approved by the State Board of Education, which are called approved independent schools. During this same school year, 435 publicly funded Vermont students were enrolled in out-of-state schools, mostly at public schools in adjoining states. Taken together, this constitutes about 5 percent of Vermont's publicly funded student population.

According to data reported by the local education agencies to AOE, public expenditures to independent and out-of-state schools totaled \$99.4 million for school year 2018/2019. Tuition for general and special education accounted for 95 percent of these expenditures.

Our first report, issued in December 2020, compared the statutes and rules governing public schools to those applying to approved independent schools.<sup>1</sup> While both public and approved independent schools are subject to many statutes and rules, these requirements can differ significantly. Generally, the differences subject public schools to more requirements than approved independent schools, particularly in the categories of governance and public participation and transparency.

The objectives of this report are to: (1) describe the trends in the numbers of students and public expenditures for tuition for grades K-12 general and special education that were sent to Vermont independent and out-of-state schools for the school years 2008/2009 – 2018/2019, (2) determine the basis of tuition payments for publicly funded students made to Vermont independent schools that provided grades K-12 general education in fiscal year 2019, and (3) assess whether the Vermont independent schools that received publicly funded tuition in school year 2018/2019 for grades K-12 general education were reviewed and approved. Special education is not included in the scope of the latter two objectives because changes to the statute pertaining to special education at approved independent schools become effective July 1, 2023.

## Trends

Between school years 2008/2009 and 2018/2019, there was a trend towards greater student enrollment in K-12 approved independent schools paid for with public funds while the number of such students enrolled in out-of-state schools steadily decreased. As illustrated by Figure 2 on page 3 of the report, publicly funded enrollment in approved independent schools increased by 8 percent from school year 2008/2009 to school year 2018/2019 while at the same time enrollment in Vermont public schools decreased by 12 percent.

<sup>1</sup> [Vermont Schools: Approved Independent \[Private\] Schools Are Not Subject to Most of the Statutes and Rules That Govern Public Schools](#) (SAO Rpt. 20-08, December 18, 2020).

## Tuition Payments


The most common tuition rate paid by school districts to approved independent schools for general education in school year 2018/2019 was based on the average announced tuition of Vermont union elementary (\$13,910) and secondary schools (\$15,618). Twenty-nine school districts paid tuition rates that ranged from \$990 to \$3,570 greater than the average announced tuition rate for public schools, mostly for secondary school students. These school districts were allowed to pay higher tuition rates to approved independent schools because voters approved the higher rate or the school met criteria in statute that allowed them to be paid a higher rate. These higher tuition rates cost Vermont taxpayers \$3.6 million more than it would have had the average announced tuition rate been paid because such costs are borne by the statewide Education Fund.

## Independent School Approval Process

The Agency of Education (AOE) is responsible for reviewing the independent schools that apply for approval and for making a recommendation to the State Board. As required by statute and rule, all independent K-12 schools that enrolled publicly funded students for general education in school year 2018/2019 were approved by the State Board, but AOE's processes for reviewing these schools had flaws. In particular, AOE did not always inform the State Board of problems found during its review or that of an accrediting organization. For example, an accrediting organization changed the accreditation status of one school to "warning" status and expressed concern about its finances.<sup>2</sup> AOE's documentation to the State Board recommending that the independent school be approved did not contain this information nor was there any evidence in the Board's meeting minutes that it was discussed.

I would like to thank the staff at AOE and the local education agencies we contacted for their cooperation during this audit. This report is available on the state auditor's website, <http://auditor.vermont.gov/>.

Sincerely,



DOUGLAS R. HOFFER  
State Auditor

---

<sup>2</sup> The accrediting organization may place a school in warning status when it finds that a school is in direct and immediate danger of losing its accreditation. The warning status was removed for this school in November 2019 (after the State Board's approval).

ADDRESSEES

The Honorable Jill Krowinski  
Speaker of the House of Representatives

The Honorable Becca Balint  
President Pro Tempore of the Senate

The Honorable Phil Scott  
Governor

Ms. Susanne Young  
Secretary, Agency of Administration

Mr. Adam Greshin  
Commissioner, Department of Finance and Management

Mr. Daniel French  
Secretary, Agency of Education

# Contents

	<b>Page</b>
Highlights	1
Background	5
Objective 1: Over a 10-Year Period, Publicly Funded Enrollment Has Increased for Approved Independent Schools and Decreased for Out-of-State Schools	7
Data Used in Analyses	7
Student Enrollment	8
Expenditures	12
Objective 2: School Districts Largely Based Tuition Payments to Approved Independent Schools on Statute	13
Elementary Schools	14
Secondary Schools	15
Objective 3: Independent Schools Were Reviewed and Approved for General Education, but Improvements Warranted	19
Other Matters	24
Conclusions	25
Recommendations	26
Management's Comments	27
Appendix I: Scope and Methodology	28
Appendix II: Abbreviations	32
Appendix III: AOE Data Sources Used in This Report	33

	<b>Page</b>
Appendix IV: Management's Comments from the Agency of Education	36

# Highlights

According to the Joint Fiscal Office, only Vermont and Maine offer a town tuitioning program in which school districts that do not operate a public school pay to send their students to approved independent (private) schools or public schools in other districts.<sup>3</sup> Parents from districts that operate schools may also petition to send students to other public or independent schools. As of July 1, 2020, of the State's 110 school districts and 2 interstate school districts, 45 did not operate an elementary and/or secondary school.

To be an approved independent school, the school must apply to the Agency of Education (AOE). After AOE's review of the school's application, the Secretary of Education submits a recommendation to the State Board of Education (hereafter called the State Board), which has the authority to approve the school. Only those Vermont independent schools that are approved are statutorily allowed to receive public tuition dollars. In school year 2018/2019, the State's local education agencies reported that 3,407 students were enrolled in 65 Vermont approved independent schools at public expense.<sup>4</sup> During this same school year, school districts paid for 435 students to enroll in out-of-state schools, most of them in public schools in adjoining states.

This is the second of two reports on approved independent schools.<sup>5</sup> The objectives of this report are to: (1) describe the trends in the numbers of students and public expenditures for tuition for grades K-12 general and special education that were sent to Vermont independent and out-of-state schools for the school years 2008/2009 – 2018/2019, (2) determine the basis of tuition payments for publicly funded students made to Vermont independent schools that provided grades K-12 general education in fiscal year 2019,<sup>6</sup> and (3) assess whether the Vermont independent schools that received publicly funded tuition in school year 2018/2019 for grades K-12 general education were reviewed and approved.<sup>7</sup> The SAO did not include special education in the scope of the latter two objectives because changes to the statute pertaining to special education at approved independent schools become effective July 1, 2023.<sup>8</sup>

<sup>3</sup> [Public Funding of Independent School Tuition and Special Education Services](#) (Vermont Legislative Joint Fiscal Office, April 25, 2017).

<sup>4</sup> There may be up to 32 additional state-funded students not included in this number that were enrolled in approved independent schools in the 2018/2019 school year that the local education agencies were not required to report.

<sup>5</sup> [Vermont Schools: Approved Independent \[Private\] Schools Are Not Subject to Most of the Statutes and Rules That Govern Public Schools](#) (SAO Rpt. 20-08, December 18, 2020).

<sup>6</sup> AOE uses the term fiscal year (July 1 to June 30) in its instructions for collecting the data used in Objective 2. [16 V.S.A. §11\(12\)](#) defines school year as encompassing this same timeframe so for purposes of aiding the reader from hereafter we will use the term school year.

<sup>7</sup> Appendix I contains details on our scope and methodology. Appendix II contains a list of abbreviations used in this report.

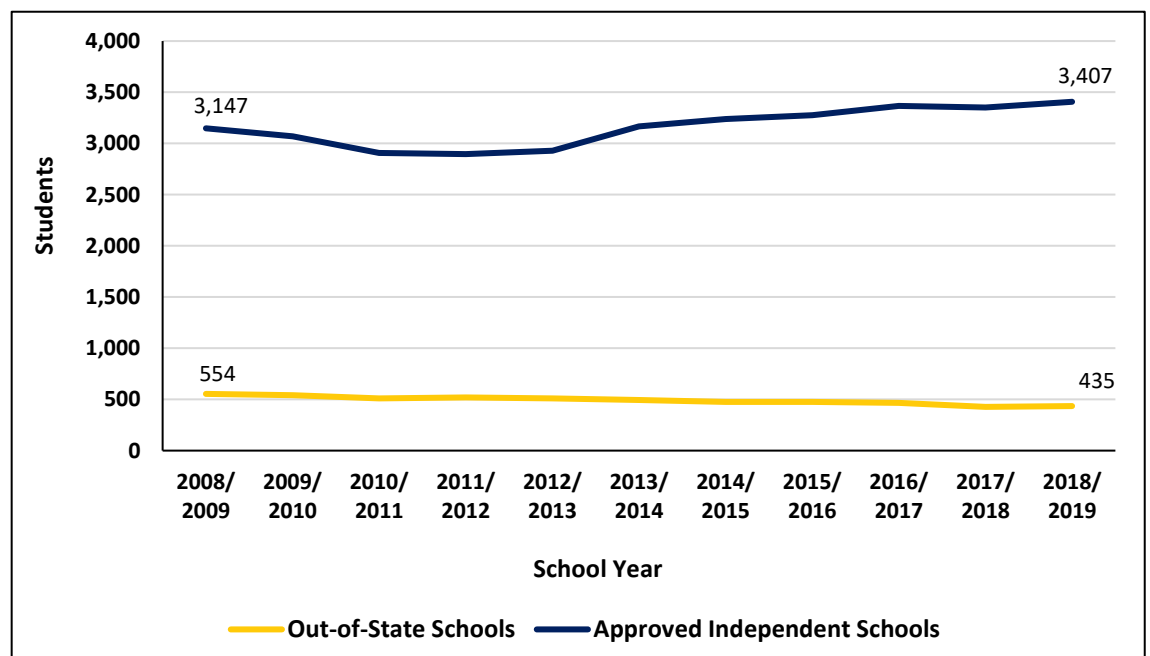
<sup>8</sup> [Act 173](#) (2018) as amended by [Act 112](#) (2020).



### Objective 1 Finding

As illustrated by Figure 1, between school years 2008/2009 and 2018/2019, there was a trend towards greater student enrollment in K-12 approved independent schools paid for with public funds (3,147 to 3,407 students) while the number of students enrolled in out-of-state schools steadily decreased (554 students to 435 students).

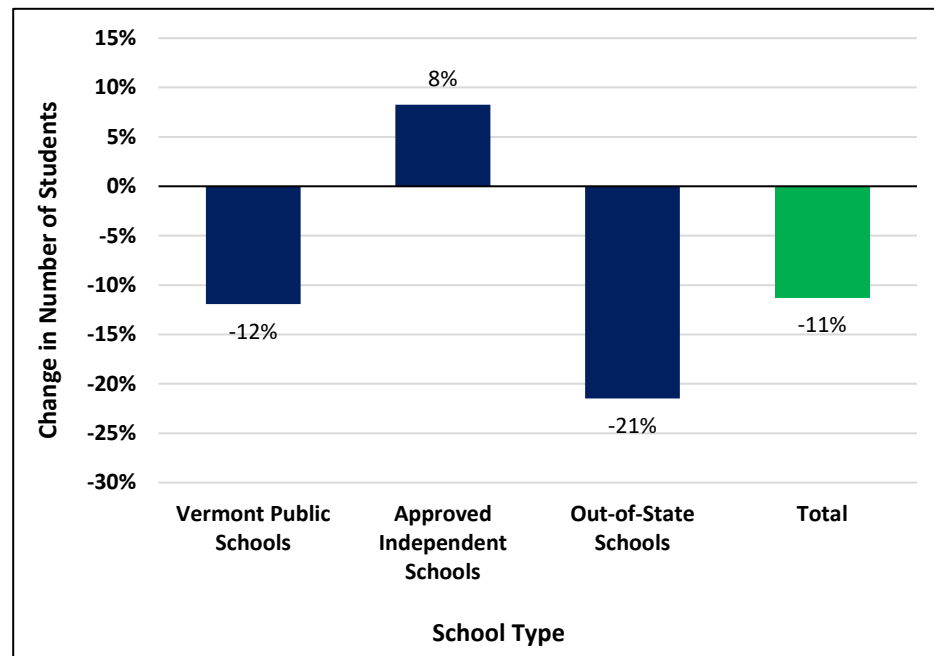
**Figure 1: Trend in Publicly Funded Student Enrollment in Approved Independent and Out-of-State Schools, School Years 2008/2009 – 2018/2019<sup>a</sup>**



<sup>a</sup> This figure includes state-placed students required to be reported by the LEAs. Not included are state-funded students that approved independent schools reported as enrolled in their schools that were not required to be reported by the LEAs. Between school years 2014/2015 and 2018/2019, the number of such students reported by independent schools ranged from 11 to 32. This information is not available prior to school year 2014/2015 so the total number of state-funded students enrolled in approved independent schools between 2008/2009 and 2013/2014 cannot be determined.

During this same time period, at least 95 percent of K-12 students were enrolled in Vermont public schools, although enrollment in public schools decreased (85,079 to 74,930 students). Figure 2 illustrates the percentage change in enrollment in each type of school for this 10-year period.

**Figure 2: Percent Change in Enrollment in Public, Approved Independent, and Out-of-State Schools for Publicly Funded Students Between School Years 2008/2009 and 2018/2019<sup>a</sup>**



<sup>a</sup> This figure includes state-placed students required to be reported by the LEAs. Not included are state-funded students that approved independent schools reported as enrolled in their schools that were not required to be reported by the LEAs. Between school years 2014/2015 and 2018/2019, the number of such students reported by independent schools ranged from 11 to 32. This information is not available prior to school year 2014/2015 so the total number of state-funded students enrolled in approved independent schools between 2008/2009 and 2013/2014 cannot be determined.

According to data reported by the local education agencies to AOE, public expenditures to independent and out-of-state schools totaled \$99.4 million for school year 2018/2019.<sup>9</sup> Tuition for general and special education accounted for 95 percent of these expenditures. Between school years 2008/2009 and 2018/2019, expenditures for general and special education tuition for students enrolled in Vermont approved independent schools at the expense of the taxpayers increased by 71 percent (from \$49.8 million to \$85 million) while tuition expenditures for students attending out-of-state schools increased by 35 percent<sup>10</sup> (\$6.7 million to \$9 million).

<sup>9</sup> We found material errors in AOE's source for expenditure and tuition data. While we adjusted for these errors, we concluded that this source was of undetermined reliability for purposes of calculating the expenditure and tuition data in Objective 1 and the tuition rate data used in Objective 2. The errors that we found in this data is explained in the Other Matters section of the report.

<sup>10</sup> This percentage is calculated on expenditure amounts that are not rounded.

## Objective 2 Finding

The most common tuition rate paid by school districts to approved independent schools in school year 2018/2019 was based on the average announced tuition of Vermont union elementary (\$13,910) and secondary schools (\$15,618) calculated by AOE. Twenty-nine school districts paid tuition rates that ranged from \$990 to \$3,570 greater than the average announced tuition rate for public schools, mostly for secondary school students.<sup>11</sup> These school districts were allowed to pay higher tuition rates to approved independent schools because voters approved the higher rate or the school met criteria in statute that allowed them to be paid a higher rate (e.g., the school functioned as an approved area career center). These higher tuition rates meant that the statewide Education Fund paid \$3.6 million more than it would have in 2018/2019 had the average announced tuition rate been paid to the schools for enrolled students.

## Objective 3 Finding

Vermont independent schools that enrolled publicly funded students in school year 2018/2019 for grades K-12 general education were approved by the State Board and we confirmed that AOE conducted a review of the schools that enrolled the vast majority of these students. The independent school approval process is set by statute and Rule Series 2200. AOE conducts different review processes depending on whether the independent school is accredited or not. Most publicly funded students that were enrolled in Vermont approved independent schools in school year 2018/2019 attended schools accredited by the New England Association of Schools and Colleges (NEASC).

Although there were flaws, AOE generally followed its review processes. The following are areas that, if changed, could improve AOE's process:

- AOE did not check that accredited schools met the statutory criteria that an independent school meet the minimum curriculum requirements in 16 V.S.A. 906 (e.g., reading, citizenship, fine arts).
- AOE did not always inform the State Board if its review or that of NEASC found a weakness related to one or more approval criteria or other problems.
- The approval period of one third of the 15 schools we reviewed exceeded the five-year maximum set by statute.

## Recommendations

We made a variety of recommendations to AOE, primarily to improve its process of reviewing independent schools for recommending approval to the State Board.

<sup>11</sup> This does not include tuition rates for the few students on plans under Section 504 of the Federal Rehabilitation Act of 1973 who receive general education services. Vermont statute does not currently address how the tuition rates for such students should be calculated.

## Background

In Vermont, private schools may apply to be an approved independent school. The State Board is responsible for approving schools that apply for such a designation.<sup>12</sup> As of December 17, 2020, there were 97 approved independent schools. These schools varied in the grades they covered as well as whether they provided general education, special education, or both.

Vermont statute requires school districts<sup>13</sup> to maintain public elementary<sup>14</sup> (kindergarten to sixth grade) and secondary or high schools<sup>15</sup> (seventh to twelfth grade) or to pay tuition for their students to attend a public school in another district or an approved independent school.<sup>16</sup> A school district is a public governing unit whose boundaries can encompass one or more towns or portions of towns that is organized to provide for the education of resident students in all grades or some subset of grades. Only the voters of a school district decide whether the district will operate a school or pay tuition for some or all grades.

As of July 1, 2020, [AOE reported](#) that Vermont had 110 school districts and two interstate school districts<sup>17</sup> of which 45 paid tuition rather than operate schools for some or all grade levels. For example, they may operate an elementary school but not a high school or they may not operate any schools. These 45 districts may pay the tuition for students to attend a public school in another district, at a Vermont approved independent school, and/or at an out-of-state public or private school.

As shown in Figure 3, local education agencies (LEA)<sup>18</sup> reported that 95 percent of Vermont students were enrolled in public schools in school year 2018/2019. During that school year, 60 percent of the 3,407 students enrolled in Vermont approved independent schools at public expense attended four schools commonly known as the historical academies—St. Johnsbury Academy, Lyndon Institute, Thetford Academy, and Burr and Burton Academy. These four historical academies are secondary schools that

<sup>12</sup> As provided for in [16 V.S.A. §166\(c\)](#), schools that do not go through this process can provide elementary or secondary education if they file an enrollment notice with AOE that contains certain information and assertions. These schools are known as recognized independent schools. School districts are not authorized to pay publicly funded tuition to such schools.

<sup>13</sup> According to [16 V.S.A. §11\(a\)\(10\)](#), the term school district “means town school districts, union school districts, interstate school districts, city school districts, unified union districts, and incorporated school districts, each of which is governed by a publicly elected board.”

<sup>14</sup> [16 V.S.A. §821](#).

<sup>15</sup> [16 V.S.A. §822](#).

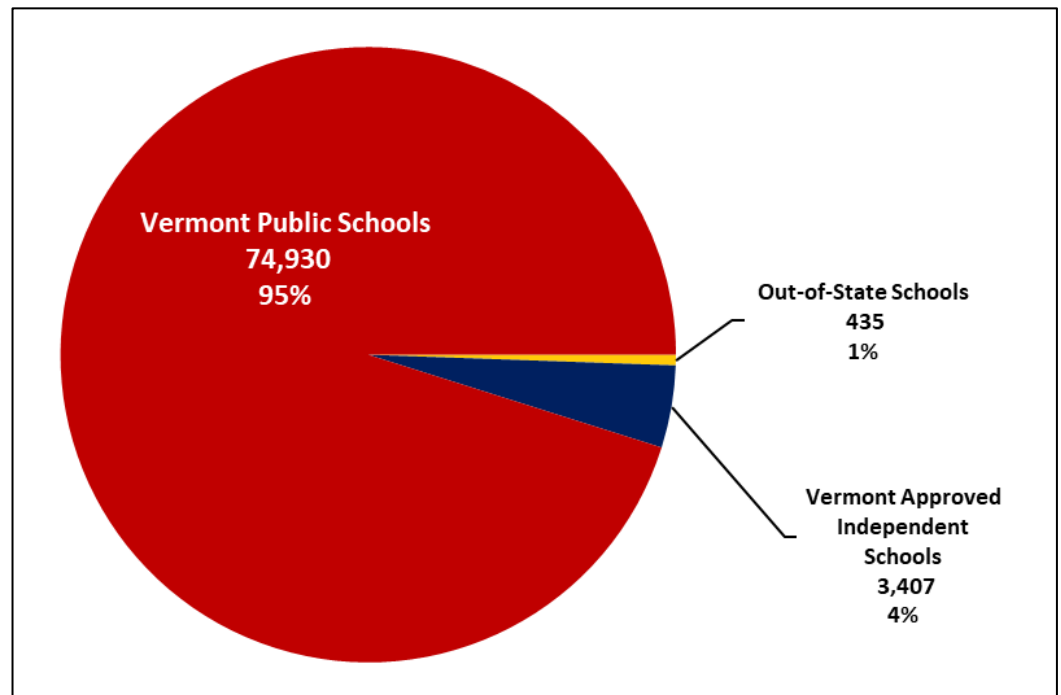
<sup>16</sup> These statutes also allow tuition to be paid to independent schools meeting education quality standards pursuant to 16 V.S.A. [§823](#) and [§828](#).

<sup>17</sup> The two interstate school districts are the Dresden Interstate School District and the Rivendell Interstate School District, which operate schools located in Vermont and New Hampshire.

<sup>18</sup> Vermont has several types of LEAs, such as supervisory unions and supervisory districts. To make the report easier to read, when discussing the data reporting to AOE we will use the term LEA to encompass all these types.

provide both general and special education. In addition, St. Johnsbury Academy and Lyndon Institute provide career and technical education.

**Figure 3: Number of Publicly Funded Students Enrolled in School Year 2018/2019, by School Type<sup>a, b</sup>**



- <sup>a</sup> Vermont publicly funded students in the two interstate school districts were included in the Vermont public school enrollment numbers regardless of the location of the school they attended.
- <sup>b</sup> This figure includes state-placed students required to be reported by the LEAs. There may be up to 32 additional state-funded students not included in this figure that were enrolled in approved independent schools in the 2018/2019 school year that the LEAs were not required to report. The percentage of students in each category in the figure is the same with or without these students.

Although school budgets are approved by local school district voters, local education spending is funded through the statewide Education fund, which among other sources includes pooled revenue from local education-related property taxes,<sup>19</sup> income taxes, and sales and use taxes. The State pays each school district the amount needed to fund the district's locally adopted budget through the Education Fund. The amount equals the total voter approved expenditure budget less any amounts for expenditures that have other funding sources.

<sup>19</sup> Municipalities collect statewide education property taxes on behalf of the State and remit the taxes collected to their local school systems, or to the state directly, depending on the amount collected relative to the amount required to fund the local school system.

## Objective 1: Over a 10-Year Period, Publicly Funded Enrollment Has Increased for Approved Independent Schools and Decreased for Out-of-State Schools

Over a 10-year period, the trend of publicly funded students' enrollment in approved independent schools showed increases while the trend of students attending out-of-state schools showed decreases. Public school enrollment also decreased during this same time period. With respect to public expenditures, the general and special education tuition cost of sending students to approved independent schools and out-of-state schools increased by 71 percent and 35 percent, respectively, from school year 2008/2009 to 2018/2019.

### Data Used in Analyses

The basis for our analyses of trends was five data collections from systems AOE uses to collect enrollment and financial data from LEAs, as follows:

- Data on the numbers of students enrolled in public, Vermont independent, and out-of-state schools came from the Statewide Longitudinal Data System and its predecessor system (this data is also called census data).<sup>20</sup>
- Data on the number of students who are eligible for and/or receive special education services is derived by comparing data from the Special Education Child Count system and the census data.
- Data on expenditures comes from the Statbook system which collects summary-level revenue, expenditure, and other financial data. This system includes a worksheet called the SW-1 Tuition Worksheet from which we extracted the tuition rates and amounts paid to approved independent and out-of-state schools.

Appendix III provides a summary of the use and timing of the data from each of these systems as contained in this report.

Audit standards require that we assess the sufficiency and appropriateness of computer processed data. We used guidance from the U.S. Government

<sup>20</sup> We used data from two census collections: the Public School Fall Census and the Tuitioned Student Census.

Accountability Office to inform our assessment of the reliability of the data sources used in our audit.<sup>21</sup> This guidance allows for three types of possible determinations: (1) data are sufficiently reliable for the audit's purpose, (2) data are not sufficiently reliable for the audit's purpose, and (3) data are of undetermined reliability.

We concluded that that the census collections and child count data were sufficiently reliable for purposes of the enrollment data used in Objective 1.<sup>22</sup> We found material errors in the expenditure data in Statbook and errors and incomplete data in the SW-1 Tuition Worksheets (see the Other Matters section for additional information). While we adjusted for these errors, we concluded that their existence coupled with missing SW-1 Tuition Worksheets in some years and limitations in the analyses that we could conduct in our assessment of the data<sup>23</sup> meant the expenditure data was of undetermined reliability for purposes of our objectives. Because the Statbook data and related SW-1 Tuition Worksheet data is the sole centralized source of school financial data we decided to use data from these sources but to limit our reporting to providing overall expenditure and tuition amounts in Objective 1 and tuition rate data in Objective 2. We chose not to provide more detailed expenditure data (e.g., how much was for general education vs. special education) because of our concern about the accuracy of this data. The reader should take our conclusion on data reliability into account when using the expenditure information in this report.

## Student Enrollment

Although still a relatively small part of the publicly funded student population as a whole, there has been a trend towards greater enrollment in approved independent schools paid for with public funds. Between school years 2008/2009 and 2018/2019, according to data reported by the LEAs, the number of all students enrolled in Vermont approved independent schools at the expense of the taxpayers increased in most years while the number enrolled in out-of-state schools decreased. Out-of-state schools encompass both public schools in adjoining states and private schools both within and outside of the United States.<sup>24</sup> As shown by Figure 4, a recent trend towards increased independent school enrollment started in school year 2012/2013 whereas enrollment in out-of-state schools has seen a steady decrease.

<sup>21</sup> [Assessing Data Reliability](#), (U.S. Government Accountability Office, GAO-20-283G, December 2019).

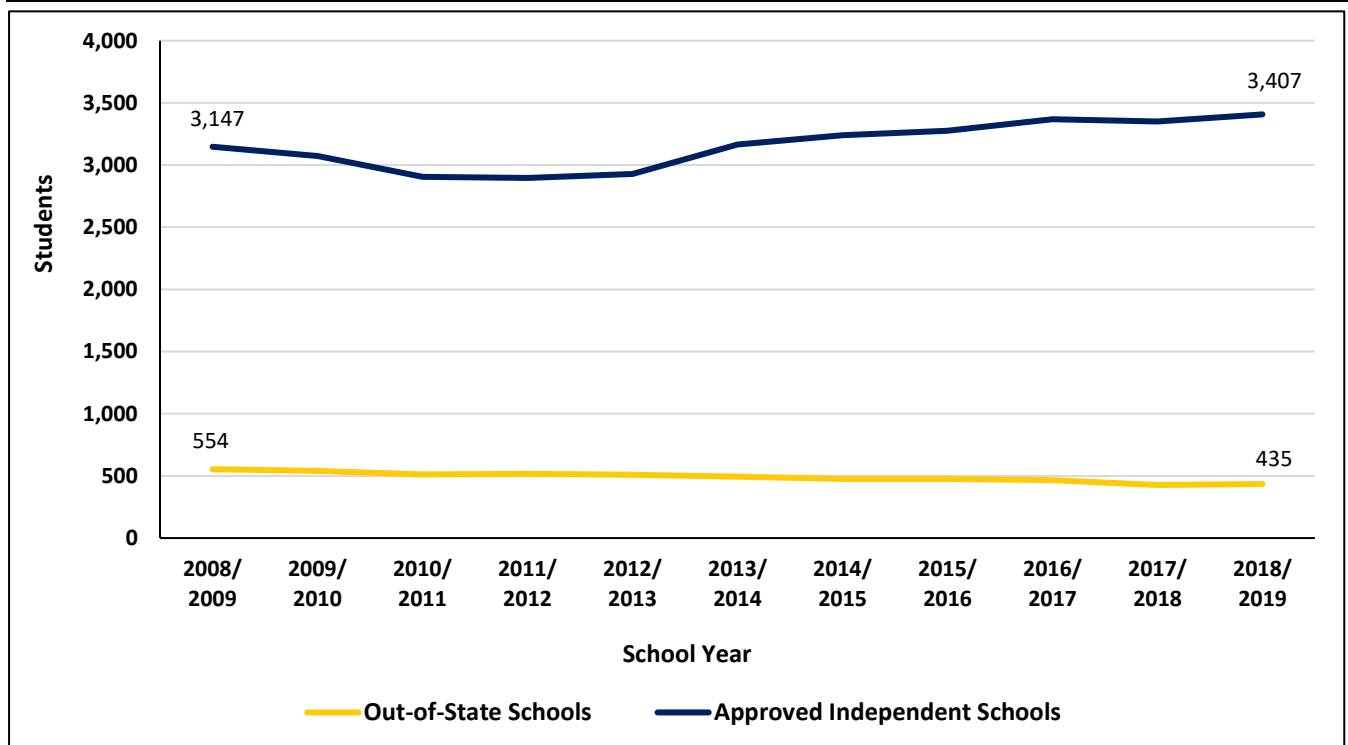
<sup>22</sup> This conclusion does not necessarily mean that the data in these collections are error-free.

<sup>23</sup> For example, we could not check whether the total StatBook expenditures for tuition for special education agreed to the SW-1 Tuition Worksheet prior to school year 2017/2018 because AOE did not require special education be reported on the SW-1 worksheet until that year.

<sup>24</sup> In school year 2018/2019, at least 66 percent of students enrolled in out-of-state schools attended public schools.

The large increase between 2012/2013 and 2013/2014 was in part due to voters in the Village of North Bennington deciding to close their public elementary school with an enrollment of 120 students and to reopen it as an independent school. Publicly funded enrollment in approved independent schools has continued to increase since this time. Taken as a whole, the percentage of publicly funded students enrolled outside of the Vermont public school system increased by 4 percent between the 2008/2009 and 2018/2019 school years.

**Figure 4: Trend in Publicly Funded Student Enrollment in Approved Independent and Out-of-State Schools, School Years 2008/2009 – 2018/2019<sup>a</sup>**



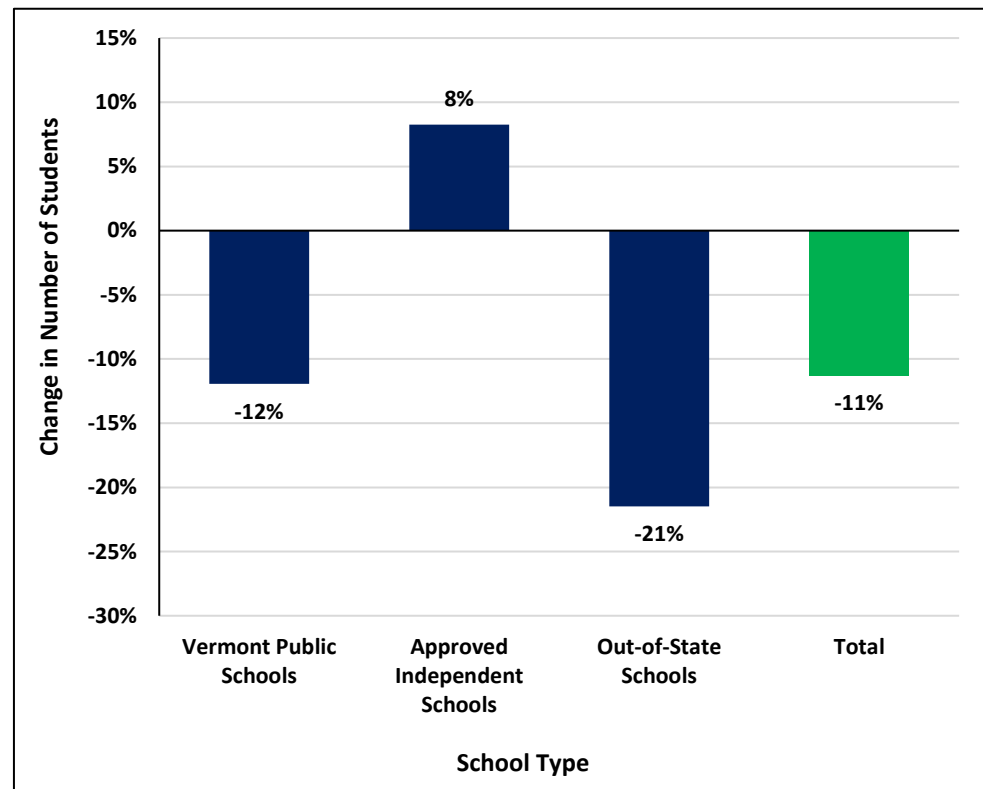
<sup>a</sup> This figure includes state-placed students required to be reported by the LEAs. Not included are state-funded students that approved independent schools reported as enrolled in their schools that were not required to be reported by the LEAs. Between school years 2014/2015 and 2018/2019, the number of such students reported by independent schools ranged from 11 to 32. This information is not available prior to school year 2014/2015 so the total number of state-funded students enrolled in approved independent schools between 2008/2009 and 2013/2014 cannot be determined.

At the same time that there was an eight percent increase in Vermont approved independent school enrollment from school years 2008/2009 to 2018/2019 by publicly tuitioned students there was an overall decrease in public school enrollment (see Figure 5). Between school years 2008/2009 and 2018/2019, public school enrollment dropped by 12 percent (from 85,079 to 74,930) although it still



encompassed at least 95 percent of students paid by public funds enrolled in every school year between 2008/2009 and 2018/2019.

**Figure 5: Percent Change in Enrollment in Public, Approved Independent, and Out-of-State Schools for Publicly Funded Students Between School Years 2008/2009 and 2018/2019<sup>a</sup>**



<sup>a</sup> This figure includes state-placed students required to be reported by the LEAs. Not included are state-funded students that approved independent schools reported as enrolled in their schools that were not required to be reported by the LEAs. Between school years 2014/2015 and 2018/2019, the number of such students reported by independent schools ranged from 11 to 32. This information is not available prior to school year 2014/2015 so the total number of state-funded students enrolled in approved independent schools between 2008/2009 and 2013/2014 cannot be determined.

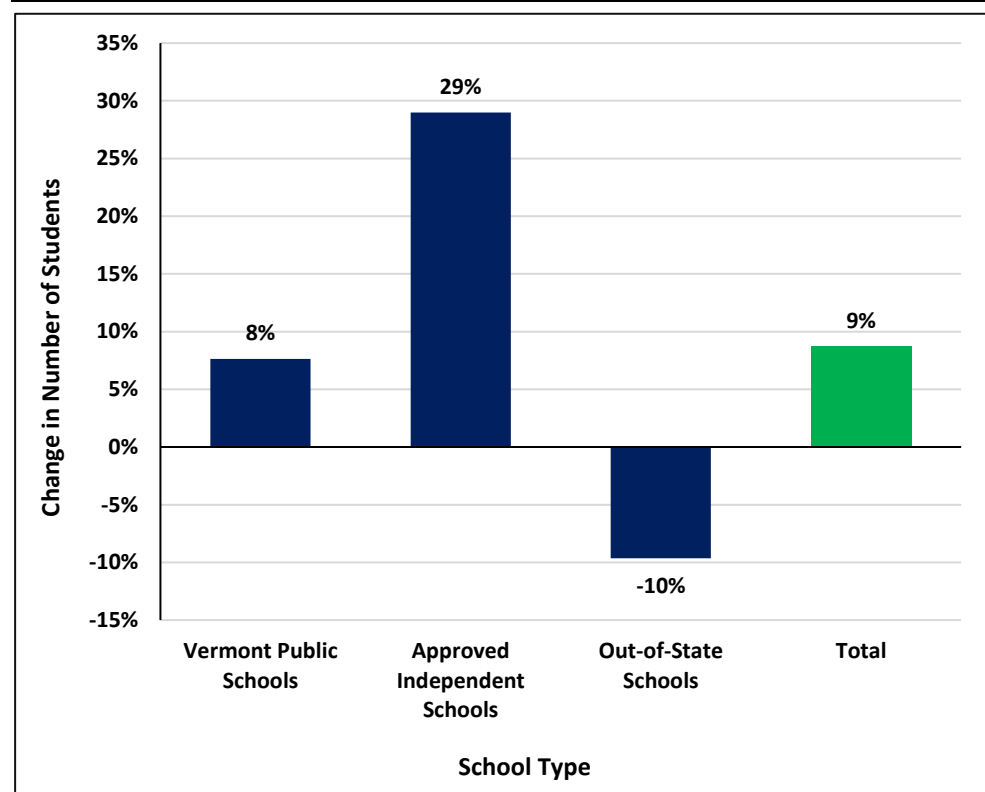
### Special Education Enrollment

Increased enrollment in Vermont approved independent schools was accompanied by a greater percentage of these students receiving special education services.<sup>25</sup> Based on data reported by the LEAs, in 2008/2009, 683

<sup>25</sup> [Rule 2360.2.12](#) defines special education as specially designed instruction that cannot be provided within the school's standard instructional conditions or provided through the school's educational support system, at no cost to the parent, to meet the unique needs of an eligible child with a disability. Vermont independent schools must be approved for one or more specific disability categories in order to enroll students with related special education needs unless certain exception conditions outlined in [Rule 2228.2](#) are met. The disability categories are: (1) autism spectrum disorder, (2) deaf/blindness, (3) hearing loss, (4) developmental delay, (5) emotional disturbance, (6) intellectual

of the 3,147 students (22 percent) enrolled in approved independent schools were receiving special education while this grew to 26 percent in 2018/2019 (881 of 3,407 students). This is consistent with the overall increase in students receiving special education services from school years 2008/2009 to 2018/2019 (12,251 and 13,319, respectively) regardless of school type.<sup>26</sup> Figure 6 shows the percentage change of students receiving special education services in 2008/2009 and 2018/2019 for each school type.

**Figure 6: Percent Change in Enrollment in Public, Approved Independent, and Out-of-State Schools for Publicly Funded Students Receiving Special Education Services in School Years 2008/2009 and 2018/2019<sup>a</sup>**



<sup>a</sup> This figure includes state-placed students required to be reported by the LEAs. Not included are state-funded students receiving special education services that approved independent schools reported as enrolled in their schools that were not required to be reported by the LEAs. Between school years 2014/2015 and 2018/2019, the number of such students reported by independent schools ranged from 4 to 19. This information is not available prior to school year 2014/2015 so the total number of state-funded students enrolled in approved independent schools between 2008/2009 and 2013/2014 cannot be determined.

disability, (7) multiple disabilities, (8) orthopedic impairment, (9) other health impairment, (10) specific learning disability, (11) speech or language impairment, (12) traumatic brain injury, and (13) visual impairment.

<sup>26</sup> In 2008/2009, there were 83 students out of a total of 554 students (15 percent) receiving special education in out-of-state schools. In 2018/2019, the enrollment of students receiving special education in this school type was 75 out of 435 students (17 percent).

## Expenditures

In school year 2018/2019, LEAs reported to AOE public expenditures to independent and out-of-state schools that totaled \$99.4 million. Ninety-five percent of these expenditures were for general and special education tuition. The remainder is composed of Statbook expenditures that combine the independent and out-of-state schools into the same categories. The largest amount was \$3.3 million for special education services called “excess costs,”<sup>27</sup> which are costs that are not covered by general education or special education tuition.<sup>28</sup>

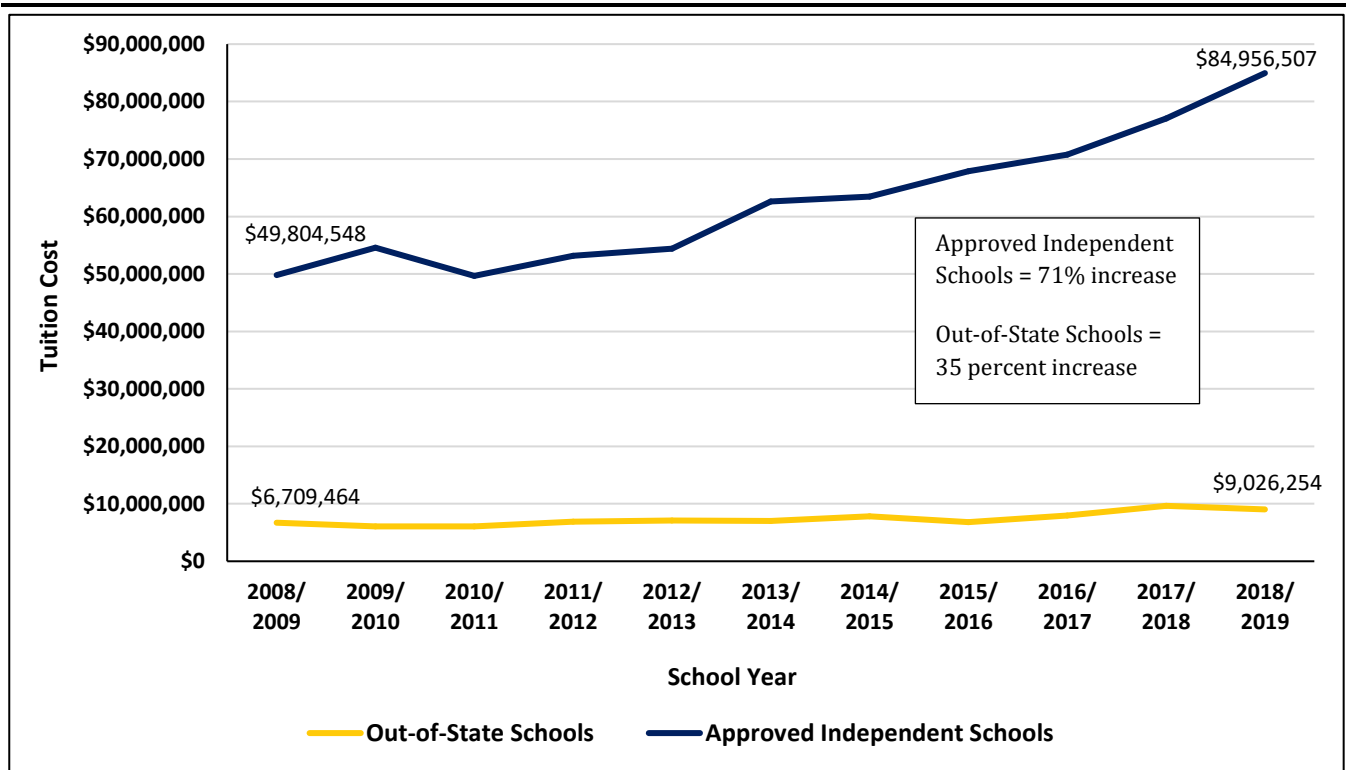
Between school years 2008/2009 and 2018/2019, based on LEA-reported data, expenditures for tuition for students attending Vermont approved independent schools at the expense of the taxpayers increased by 71 percent while expenditures for those attending out-of-state schools increased by 35 percent. Figure 7 illustrates this trend.

---

<sup>27</sup> Excess costs are authorized by [16 V.S.A §826\(c\)](#). [Rule 2366.6.4](#) provides procedures for excess costs, which include that the district of residence or agency responsible shall be given prior notice by the billing organization that an excess cost will be charged and that such costs shall be calculated based on the actual costs attributable to the student or proportionate costs in accordance with the Handbook for Financial Accounting of Vermont School Systems accounting and cost allocation procedures. An example of an excess cost is if a school had to rent or purchase specialized equipment.

<sup>28</sup> The other two categories of expenditures that cannot be split between independent and out-of-state schools were for transportation services and services purchased from such schools other than for tuition and transportation, which in school year 2018/2019 were \$183,075 and \$1,890,116, respectively.

**Figure 7: State Expenditures for Tuition to Approved Independent and Out-of-State Schools, School Years 2008/2009 – 2018/2019, as Reported by the LEAs<sup>a</sup>**



<sup>a</sup> This figure includes tuition for both general and special education. It does not include “excess costs” paid to approved independent and out-of-state schools, which are defined as special education expenditures not covered by general education or special education tuition. It also does not include transportation and other purchased services expenditures paid to independent and out-of-state schools.

## Objective 2: School Districts Largely Based Tuition Payments to Approved Independent Schools on Statute

The basis of school district tuition payments to approved independent schools for general education<sup>29</sup> almost always followed Vermont statute. The most common rate school districts paid for elementary and secondary school education was based on the average announced tuition rate of Vermont union elementary and secondary schools, as calculated by AOE.<sup>30</sup> Twenty-nine

<sup>29</sup> In Statbook, general education tuition includes students who receive special education services at the same tuition rate as students who do not receive such services.

<sup>30</sup> The source of the tuition rates, tuition amounts paid, and full-time-equivalent students in this section are derived from the SW-1 Tuition Worksheet in Statbook. As previously described, we assessed this data as being of undetermined reliability. The effect on this objective is that the amounts in Tables 1 and 2 could have errors.

school districts paid higher tuition rates as allowed by the statute either because the voters of the district approved the higher rate or the independent school met a specific criterion that allowed it to charge a higher rate (e.g., it served as an approved area career center). All but one of these school districts paid the higher rate to an independent secondary school. These higher tuition rates cost all taxpayers \$3.6 million more than it would have had the average announced tuition rate been paid because such costs are borne by the statewide Education Fund.

## Elementary Schools

[16 V.S.A. §823\(b\)](#) states that, unless the voters authorize a higher payment, a school district should not pay an approved independent elementary school tuition that exceeds the least of the following for the applicable year: (1) the average announced tuition of Vermont union elementary schools, (2) the tuition charged by the approved independent school, or (3) the average per-pupil tuition the district pays for its other students.

According to the SW-1 Tuition Worksheet data in Statbook, for school year 2018/2019, 10 school districts reported paying \$3.9 million in tuition to 13 approved independent elementary schools for general education. In Statbook, general education tuition includes students who receive special education services at the same tuition rate as students who do not receive such services. As shown by Table 1, most of the school districts paid a tuition rate that was based on the AOE-calculated average announced tuition for Vermont union elementary schools (\$13,910 in school year 2018/2019). As allowed by Vermont statute, voters of one school district approved a tuition rate that was \$990 greater than this amount for an approved independent school (\$14,900). Thus, because Vermont funds K-12 education through the Statewide education fund, all Vermont taxpayers paid \$113,256 more than they would have had the voters of that school district not approved this increased rate.

**Table 1: Amount of General Education Tuition<sup>a</sup> Paid to Approved Independent Schools for Students in Elementary Schools in School Year 2018/2019, by Category<sup>b</sup>**

Tuition Category	# of School Districts <sup>c</sup>	# of Approved Independent Schools <sup>d</sup>	Tuition Rate	Full-Time-Equivalent Students <sup>e</sup>	Total Tuition Paid <sup>f</sup>	Comment
Average announced tuition of Vermont union elementary schools	7	8	\$13,910	141.2	\$1,962,087	Rate allowable under statute. This is based on an annual <a href="#">AOE report</a> .
Voter-approved tuition rate	1	1	\$14,900	114.4	\$1,704,560	Rate allowable under statute.
Tuition rate charged by school	2	1	\$8,750	13.5	\$118,324	Rate allowable under statute.
Tuition rate for students on plans under Section 504 of the Federal Rehabilitation Act of 1973 who receive general education services	3	3	Range (\$33,441 - \$47,902)	2.6	\$97,189	Vermont statute does not explicitly address the rate to be charged for students on these types of plans, which are for students with a disability who need accommodation or limited services. <sup>g</sup> A statutory change effective in 2023 is expected to address this issue. <sup>h</sup>
<b>TOTAL</b>				<b>271.7</b>	<b>\$3,882,160</b>	

- <sup>a</sup> In Statbook, general education tuition includes students who receive special education services at the same tuition rate as students who do not receive such services.
- <sup>b</sup> Windham Northeast Supervisory Union did not submit to AOE the required SW-1 worksheet that contains detailed tuition expenditure data for school year 2018/2019 so we could not perform this analysis for this organization's school districts.
- <sup>c</sup> A school district may have students in more than one approved independent school/tuition category.
- <sup>d</sup> Approved independent schools may enroll students from more than one school district.
- <sup>e</sup> Unlike data from the census collections, full-time-equivalent students are not a headcount. According to instructions for the SW-1 Tuition Worksheet, non-full year students were to be prorated by the number of days the student was enrolled divided by the total number of session days.
- <sup>f</sup> Total tuition paid does not always equal the tuition rate x the full time equivalent students because we used the numbers reported by the LEAs to AOE. According to AOE's instructions, the Total Tuition Paid field is automatically calculated in the SW-1 Tuition Worksheet, but can be overwritten by the LEA.
- <sup>g</sup> According to [Federal regulation](#), a private school may not charge more for the "provision for an appropriate education to handicapped persons than to nonhandicapped persons except to the extent that any additional charge is justified by a substantial increase in cost ... ." The rates in the table are for tuition only and do not include additional services charged in some cases.
- <sup>h</sup> [Act 173](#) (2018) requires the Secretary of Education to set, after consultation with Vermont independent schools, the maximum tuition rates to be paid by AOE, supervisory unions, and school districts to independent schools that limit enrollment to students who are on an individualized education program or Section 504 plan and who are enrolled pursuant to a written agreement between the LEA and the school. [Act 112](#) (2020) made this change effective July 1, 2023.

## Secondary Schools

[16 V.S.A. §824](#) generally contains the criteria for tuition that school districts should pay to approved independent high schools. Under this statute, the

school district is to pay an amount not to exceed the average announced tuition of Vermont union high schools for the applicable year unless certain circumstances exist. Those circumstances are when (1) school district voters approve a higher rate,<sup>31</sup> (2) an independent high school functions as an approved area career center,<sup>32</sup> (3) an independent school is designated as a public high school,<sup>33</sup> or (4) AOE designates an independent school as meeting education quality standards.<sup>34</sup>

According to the SW-1 Tuition Worksheet in Statbook, for school year 2018/2019, 47 school districts reported paying \$41.6 million in tuition to 35 approved independent secondary schools for general education. In Statbook, general education tuition includes students who receive special education services at the same tuition rate as students who do not receive such services. As shown in Table 2, almost all of these payments were in accordance with State statute. Five school districts paid a total of \$65,674 in tuition for students enrolled in an approved independent school that is a distance learning school. Vermont statute<sup>35</sup> prohibits school districts from paying tuition to a Vermont independent school that offers a distance learning program.<sup>36</sup> In January 2017, AOE sent a memo to superintendents, principals, and curriculum coordinators emphasizing this prohibition, stating that while a distance learning program can be used to address a curriculum gap, “the student must be enrolled in a host school and the host school remains the school of record.”<sup>37</sup> School officials gave a variety of reasons why they paid tuition to the distance learning school including that it was an error and that they thought they could since it was an approved school.

---

<sup>31</sup> [16 V.S.A. §824\(c\)](#).

<sup>32</sup> [16 V.S.A. §824\(b\)](#) and [16 V.S.A. §1546](#). St. Johnsbury Academy and Lyndon Institute meet this criterion. These schools are also known as comprehensive high schools.

<sup>33</sup> [16 V.S.A. §827](#) states that an approved independent school designated as a public high school shall be regarded as a public school for tuition purposes under [16 V.S.A. §824](#), which states that school districts shall pay the full tuition rate to public high schools.

<sup>34</sup> [16 V.S.A. §824\(b\)](#).

<sup>35</sup> [16 V.S.A. §166\(b\)\(6\)](#).

<sup>36</sup> AOE grants funds to the Vermont Virtual Learning Cooperative to provide LEAs’ with a virtual learning platform, support, and curriculum for students enrolled in high school. These support services are provided at no or low cost to LEAs. AOE expanded funding and access to this resource in response to the pandemic, including expansion of services to K-5 grades.

<sup>37</sup> We confirmed with each of the school districts that the students were enrolled in the distance learning school and not a public school.

**Table 2: Amount of General Education Tuition<sup>a</sup> Paid to Approved Independent Schools for Students in Secondary Schools in School Year 2018/2019, by Category<sup>b</sup>**

Tuition Category	# of School Districts <sup>c</sup>	# of Approved Independent Schools <sup>d</sup>	Tuition Rate <sup>e</sup>	Full-Time-Equivalent Students <sup>f</sup>	Total Tuition Paid <sup>g</sup>	Comment
Average announced tuition of Vermont union secondary schools	35	20	\$15,618	526.3	\$8,389,486	Rate allowable under statute. This is based on an annual <a href="#">AOE report</a> .
Voter-approved tuition rate	4	2 <sup>h</sup>	\$17,065 <sup>h</sup>	573.6	\$9,789,090	Rate allowable under statute.
Tuition rate for school that functions as an approved area career center	11	1	\$17,260	624.8	\$10,784,148	Rate allowable under statute.
	6	1	\$17,420	404.5	\$7,046,145	Rate allowable under statute.
Tuition rate for school designated by AOE as meeting education quality standards <sup>i</sup>	7	1	\$19,188 <sup>j</sup>	268.7 <sup>j</sup>	\$5,111,746	Rate allowable under statute. AOE reported that this designation is based on the school's compliance with a predecessor standard. AOE plans to invite the school to participate in an evaluation against the current standard during the next school year. AOE stated that the school will lose this designation if it does not participate.
Tuition rate charged by school	3	5	Range (\$8,750 - \$15,596)	8.8	\$124,094	Rate allowable under statute.
Tuition rate for distance learning school	5	1	Range (\$4,668 - \$11,835)	8.0	\$65,674	16 V.S.A. §166(b)(6) states that independent schools located in Vermont offering distance learning programs are <b>not</b> eligible to receive tuition from school districts.
Tuition rate for students on plans under Section 504 of the Federal Rehabilitation Act of 1973 who receive general education services	5	5	Range (\$26,250 - \$71,840)	6.0	\$258,212	Vermont statute does not explicitly address the rate to be charged for students on these types of plans, <sup>k</sup> which are for students with a disability who need accommodation or limited services. A statute change effective in 2023 is expected to address this issue. <sup>l</sup>
<b>TOTAL</b>				<b>2,420.7</b>	<b>\$41,568,595</b>	

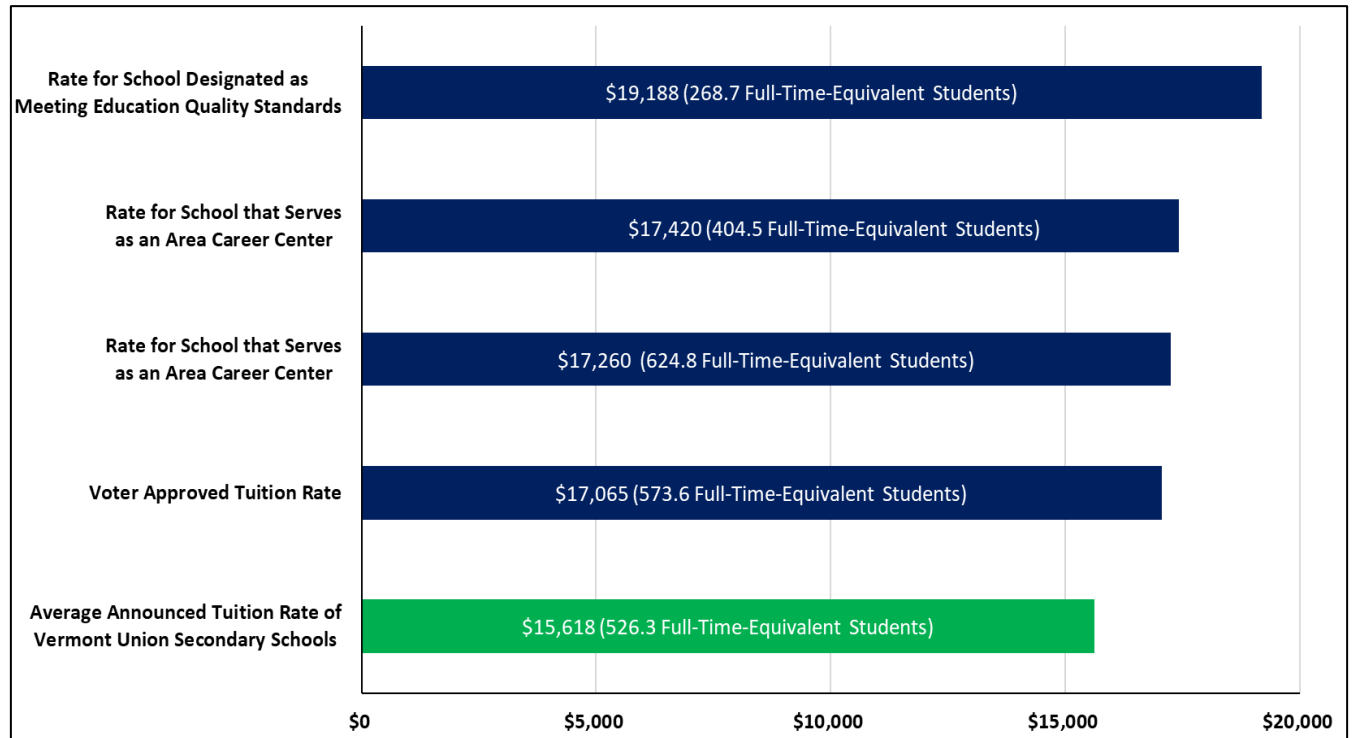


- a In Statbook, general education tuition includes students who receive special education services at the same tuition rate as students who do not receive such services. In addition, this table does not include the reduced tuition rate paid for a few students to attend an approved independent school for career technical services for part of the school day.
- b Windham Northeast Supervisory Union did not submit to AOE the required SW-1 worksheet that contains detailed tuition expenditure data for school year 2018/2019 so we could not perform this analysis for this organization's school districts.
- c A school district may have students in more than one approved independent school/tuition category.
- d Approved independent schools may have students from more than one school district.
- e LEAs sometimes reported slightly different tuition rates than are shown in this column due, in some cases, to errors or rounding differences.
- f Unlike data from the census collections, full-time-equivalent students are not a headcount. According to instructions for the SW-1 Tuition Worksheet, non-full year students were to be prorated by the number of days the student was enrolled divided by the total number of session days.
- g Total tuition paid does not always equal the tuition rate x the full time equivalent students because LEAs' sometimes reported slightly different tuition rates for the same school and because we used the numbers reported by the LEAs to AOE. According to AOE's instructions, the Total Tuition Paid field is automatically calculated in the SW-1 Tuition Worksheet, but can be overwritten by the LEA.
- h All of the full-time-equivalent students in the voter-approved tuition rate category went to one school except for two students that together accounted for less than one full-time-equivalent who went to a different school. In addition, the school district mistakenly paid this school the voter-approved tuition rate for school year 2019/2020 in error. The rate paid in error was \$475 more than the approved 2018/2019 rate.
- i At least one school district also designated this approved independent school as its public school under [16 V.S.A. §827](#), which allows the district to pay the school its full tuition.
- j For 2.5 full-time-equivalent students, an LEA paid this school a reduced tuition rate of \$12,810 rate because the students attended a career technical center part of the time.
- k According to [Federal regulation](#), a private school may not charge more for the "provision for an appropriate education to handicapped persons than to nonhandicapped persons except to the extent that any additional charge is justified by a substantial increase in cost ... ." The rates in the table are for tuition only and do not include additional services charged in some cases.
- l [Act 173](#) (2018) requires the Secretary of Education to set, after consultation with Vermont independent schools, the maximum tuition rates to be paid by AOE, supervisory unions, and school districts to independent schools that limit enrollment to students who are on an individualized education program or Section 504 plan and who are enrolled pursuant to a written agreement between the LEA and the school. [Act 112](#) (2020) made this change effective July 1, 2023.

Almost 80 percent of the total tuition paid to approved independent schools was based on a rate higher than the \$15,618 average announced tuition of Vermont union secondary schools. These higher rates were paid to five approved independent schools and ranged from \$1,447 to \$3,570 more per student (see Figure 8).<sup>38</sup> These higher rates were paid to the four historical academies (one other school received a voter-approved higher rate for less than one full-time-equivalent student). The higher tuition rates mean that because K-12 costs are paid by the statewide Education Fund, all taxpayers paid \$3.5 million more than they would have had the average announced tuition rate for secondary schools been paid for these same students.

<sup>38</sup> This does not include tuition rates for the few students on plans under Section 504 of the Federal Rehabilitation Act of 1973 who received general education services. Vermont statute does not currently explicitly address how the tuition rates for such students should be calculated.

**Figure 8: Comparison of Average Announced Tuition Rate of Vermont Union Secondary School Tuition Rates to the Higher Rates Paid to Some Approved Independent Schools in School Year 2018/2019**



### Objective 3: Independent Schools Were Reviewed and Approved for General Education, but Improvements Warranted

As required by statute and rule, all independent K-12 schools that received publicly funded tuition for general education in school year 2018/2019 were approved by the State Board, but the AOE’s processes for reviewing these schools could be improved. AOE is responsible for reviewing the independent schools that apply for approval and for making a recommendation to the State Board. In its review process, AOE distinguishes between schools that are accredited by NEASC and those that are not. AOE’s process did not (1) explicitly consider whether NEASC-accredited schools met the statutory requirement that these schools meet minimum curriculum requirements or (2) always inform the State Board if a problem was found during the review.

In addition, the approval period of one third of the 15 schools we reviewed exceeded the five-year maximum set by statute.

As we reported in December 2020, AOE and the State Board address independent school compliance with legal requirements through the approval process laid out in statute and rule.<sup>39</sup> According to [16 V.S.A. §166\(b\)](#) the State Board shall approve an independent school if the Board finds that it provides a minimum course of study in accordance with [16 V.S.A. §906](#) (e.g., reading) and substantially complies with the Board's rules for approved independent schools. [Rule Series 2200](#) contains the criteria and process for approving independent schools.<sup>40</sup>

The State Board votes on independent school approval in its public meetings and its decisions are recorded in the minutes posted on its [website](#). All the Vermont independent schools that enrolled publicly funded students in school year 2018/2019 for grades K-12 general education were approved by the State Board.<sup>41</sup> According to [Rule 2226](#), among the criteria the Board is to use to approve an independent school is that the school (1) has a course of study adequate to meeting its educational purposes and provides a minimum course of study that is age and ability appropriate, (2) has the financial capacity to carry out its educational purposes, (3) employs a sufficient number of professional staff who are qualified, and (4) has an adequate program of continuing professional staff development. Our [December 2020 report](#) identifies differences in the requirements in Vermont statute and rule requirements pertaining to public schools and approved independent schools that receive public tuition dollars for general education.

A school seeking approval submits an application to AOE asserting compliance with specific requirements. For example, schools are required to certify that they meet the statutory requirements for measuring attainment of student performance standards for all publicly funded students and has implemented a discipline plan that includes certain components. AOE's applications did not require schools to certify that they requested and obtained information on employees, contractors that may have unsupervised contact with school children, or student teachers from the State's Child Protection Registry and Vulnerable Adult Abuse, Neglect, and Exploitation

<sup>39</sup> [Vermont Schools: Approved Independent \[Private\] Schools Are Not Subject to Most of the Statutes and Rules That Govern Public Schools](#) (SAO Rpt. No. 20-08, December 18, 2020).

<sup>40</sup> In accordance with [Act 173](#) (2018), AOE and the State Board are working on changes to the independent school rule.

<sup>41</sup> In one case, the expiration date of the school's approval was June 30, 2014 and AOE has not submitted a recommendation to the State Board for the renewal of this approval. According to the AOE official that performs independent school reviews, this school submitted a timely application for renewal and was visited multiple times by AOE and contractor staff (more than one visit was necessary because the notes from the first visit were lost). While AOE prepared a recommendation to renew the approval of this school to the State Board, it was not submitted. It was unclear why this lapse occurred. According to an AOE attorney, AOE considers this school to be approved because its application was submitted timely and Rule 2222.5 allows for the current approval to continue until the State Board acts. Our concern about AOE's application of this rule is addressed in a later section of the report.

Registry as required by [16 V.S.A. §255](#). This is an important omission because our prior audit work has found that public schools were not always performing the required checks of the Child Protection Registry.<sup>42</sup>

Once it receives a school's application, AOE conducts a review process that culminates in the Secretary of Education's recommendation to the State Board. AOE evaluates schools without accreditation more closely than those that are accredited.

- *Schools that are not accredited.* The application submitted by a school that is not accredited requires narrative descriptions of, for example, its curriculum (including each of the elements of the minimum course of study in 16 V.S.A. §906), physical facilities, and professional staff qualifications. After AOE reviews the application for completeness, it conducts a one-day site visit to the school.
- *Schools that are accredited.* [16 V.S.A. §166\(b\)](#) states that the State Board may approve an independent school that is accredited without State Board evaluation. [State Board Rule 2223](#) has a similar statement and requires that the accrediting organization be recognized by the State Board.<sup>43</sup> Accredited schools must submit to AOE (1) an application that is limited to a certification that it meets certain conditions and does not require narrative descriptions and (2) a copy of a letter from the accrediting organization. AOE does not perform a site visit to the school as part of its general education review.<sup>44</sup> Most publicly tuitioned students that were enrolled in approved independent schools in school year 2018/2019 for general education attended schools accredited by NEASC.<sup>45</sup> According to NEASC, its accreditation process includes a self-study process that focuses on documenting the school's adherence to NEASC standards and a multi-day visit. In a July 2015 [letter](#) to schools, the Secretary of Education stated that "NEASC engages a robust review process across all areas (curriculum, facilities, financial capacity) that, arguably, exceeds the Board's requirements for independent school approval."

Based on AOE's approval documentation associated with 15 schools that enrolled 92 percent of publicly tuitioned students receiving general education in school year 2018/2019—six that were not accredited and nine

<sup>42</sup> [Child Protection Registry: Public Education—Agency of Education and Supervisory Unions & Districts Failed to Obtain Many Registry Results as Required](#) (SAO rpt. 19-06, December 16, 2019).

<sup>43</sup> The list of approved accrediting organizations is contained in [Rule 7320](#).

<sup>44</sup> If a school is also seeking approval to enroll students in special education categories, AOE conducts site visits for this purpose.

<sup>45</sup> As of August 8, 2020, NEASC reported that there were 38 independent schools in Vermont that it had accredited. The State Board recognized NEASC as an accrediting agency in [Rule 7320](#).

that were accredited by NEASC—AOE generally followed its review processes.<sup>46</sup> However, there were flaws in its processes.

### Confirmation of Whether Accredited Schools Provide a Minimum Course of Study

To approve an independent school, [16 V.S.A. §166\(b\)](#) requires the State Board find that the school provides a minimum course of study in accordance with [16 V.S.A.](#)

[§906](#) (see Sidebar on the right).

According to its school evaluation manual, NEASC's accreditation process considered whether a school has a

“comprehensive program of intellectual, aesthetic, and physical activities that is appropriate to support the school’s mission and core values, and is consistent with the needs of students admitted.”<sup>47</sup> However, this criteria does not explicitly consider whether the specific Vermont minimum curriculum requirements in [16 V.S.A. §906](#) are met. AOE does not require that accredited schools certify that they meet the Vermont requirement, nor do they request curriculum documentation to perform such a review themselves.

#### MINIMUM COURSE OF STUDY

- Basic communication skills, including reading, writing, and the use of numbers.
- Citizenship, history, and government in Vermont and the United States.
- Physical education and comprehensive health education.
- English, American, and other literature.
- Natural sciences.
- Fine arts.

### AOE's Recommendations to State Board

AOE's documentation containing its recommendations to the State Board contains information such as background material, accreditation status, or a summary of its findings. However, based on a review of AOE's documentation provided to the State Board and the Board's meeting minutes, AOE did not always inform the State Board if its review or that of NEASC found a weakness related to one or more approval criteria contained in [Rule 2226](#) or other problems. The following are two examples:

- In the case of one independent school, a March 2014 NEASC accreditation letter cited needed improvements in areas such as institutional

<sup>46</sup> AOE did not provide copies of completed applications for three schools because this documentation was not in electronic form and AOE staff members were not working in their offices due to restrictions caused by the pandemic. However, AOE provided other documentation pertaining to the review of these schools that we reviewed.

<sup>47</sup> [Commission on Independent Schools: Manual for School Evaluation](#) (NEASC, 2017 Edition). This is the edition in effect during our scope.

communication and professional development and listed five major recommendations. In December 2018, NEASC sent another letter to this school changing its accreditation status to “warning” status and expressed concerns about the school’s finances.<sup>48</sup> NEASC copied AOE on both letters. AOE recommended approving this school in 2016 and 2019 but in neither year did AOE’s documentation to the State Board contain information related to NEASC’s concerns and recommendations nor was there any evidence in the Board’s meeting minutes that it was discussed.

- Regarding a different independent school, a June 2014 NEASC accreditation letter to this school (copied to AOE) contained five major recommendations. These recommendations included evaluating the school’s professional development needs and enhancing the strategic focus and capabilities of the board of trustees. Neither AOE’s subsequent documentation to the State Board submitting its recommendation to approve the independent school nor the minutes of the State Board meeting agreeing to this recommendation indicated that AOE disclosed NEASC’s recommendations.

These examples demonstrate that the State Board was not always provided important information with which to judge whether an applicant school substantially complied with the Board’s rules, as required for approval by [16 V.S.A. §166\(b\)](#) or whether it wanted to impose conditions on its approval as allowed by 16 V.S.A. §166(b)(5).<sup>49</sup>

### Length of Approval

Vermont statute states that the approval of independent schools cannot exceed five years.<sup>50</sup> The approval period of five of the 15 schools we reviewed (33 percent) exceeded this five year maximum. For example, the State Board approved one NEASC-accredited school for the period May 18, 2010 to October 1, 2017 (over seven years). This school submitted its application for renewal on September 13, 2017. AOE submitted its recommendation for approval to the State Board on December 19, 2018, which renewed its approval on this date. Thus, the school’s actual approval period was May 18, 2010 to December 19, 2018—8.5 years or 3.5 years beyond the statutory maximum. [Rule 2222.5](#) states that a school’s approval is extended until the Board acts as long as the school has submitted a timely application, which is

<sup>48</sup> NEASC may place a school in warning status when it finds that a school is in direct and immediate danger of losing its accreditation. NEASC removed the warning status for this school in November 2019 (this was after the State Board’s approval).

<sup>49</sup> [16 V.S.A. §166\(b\)\(5\)](#) states that the State Board “may revoke, suspend, or impose conditions upon the approval of an approved independent school, after having provided an opportunity for a hearing, for substantial failure to comply with the minimum course of study, for failure to demonstrate that the school has the resources required to meeting its stated objectives, for failure to comply with statutory requirements or the Board’s rules for approved independent schools, or for failure to report under subdivision (4) [requirement to provide enrollment data to AOE] of this subsection(b).”

<sup>50</sup> [16 V.S.A. §166\(b\)\(2\)](#).

not defined. Nevertheless, this does not supersede the 5-year statutory maximum. An AOE staff member who performs the reviews of independent schools attributed the untimely submissions to the State Board to a variety of circumstances, including that the Board was busy dealing with school district mergers and a change in AOE's process that has since been reversed.

## Other Matters

[16 V.S.A. §242](#) requires superintendents to submit financial data to AOE. This financial data is reported via Statbook and its SW-1 Tuition Worksheets. We found numerous errors in this data that we corrected in our analysis, as follows:

- The two interstate school districts reported their data inconsistently. One of these districts reported its costs as public school expenditures while the other district reported its expenditures as tuition to out-of-state schools. After consultation with AOE officials, we reported the expenditures of Vermont students in the interstate school districts as applying to Vermont public schools. The Statbook instructions did not provide guidance on how interstate districts were supposed to treat their expenditure data.<sup>51</sup>
- Approved independent schools that were reported as public schools.
- Out-of-state schools that were reported as Vermont approved independent schools.
- Expenditures that were recorded as tuition for independent schools that were not (e.g., they were for teen parent programs).

We also found anomalies that could not be corrected and interfered in our ability to validate the Statbook data. For example, some LEAs did not submit SW-1 Tuition Worksheets data in a given year, thus limiting the validation checks we could perform for these LEAs. Moreover, there were sometimes differences between the tuition expenditure totals in Statbook and the supporting SW-1 Tuition Worksheet when they are supposed to be equal. For example, one LEA reported about \$700,000 more in general education tuition expenditures in Statbook in school year 2018/2019 than was supported by its corresponding SW-1 Tuition Worksheet.

---

<sup>51</sup> The instructions for the Public Schools Fall Census and Tuitioned Student Census collections also did not provide guidance on how interstate school districts should record the enrollment of their students. Thus, one interstate school district recorded its students as enrolled in Vermont public schools while the other reported them as enrolled in out-of-state schools. After consultation with AOE officials, we adjusted the enrollment numbers to record student enrollment in both interstate districts as being in Vermont schools.



In addition, the SW-1 Tuition Worksheet instructions were not always clear about how LEAs were to report their information, particularly as it relates to special education full-time-equivalents and tuition costs and it appeared that LEAs reported this data inconsistently. An AOE financial manager agreed that the instructions were unclear regarding reporting special education tuition in the SW-1 Tuition Worksheet and commented that AOE was no longer capturing this information.

Ultimately, the LEAs are responsible for submitting accurate and complete data to AOE. Nevertheless, more robust AOE validation of LEA submissions could improve data quality. While Statbook has business rules for LEA data submissions, these rules were not always followed. For example, the business rules require that the amount of tuition to independent schools reported in the SW-1 Tuition Worksheet equal the amount in the object code categories for tuition paid to Vermont independent schools. However, we found cases in which this business rule was not followed. According to an AOE financial official, the Statbook system informs the school district of errors such as these but the district does not have to make a change in order to finalize its submission. Because AOE does not enforce its business rules, the data from the Statbook system is less reliable.

## Conclusions

During a 10-year period ending in 2018/2019, Vermont taxpayers have paid for more students to enroll in approved independent schools but fewer to attend out-of-state schools. School districts have generally paid the approved independent schools tuition rates allowed by statute. While the most common rate was based on the average announced tuition of union elementary and union schools, 29 school districts paid \$3.6 million more in tuition to six approved independent schools for school year 2018/2019, as allowed by statute. These higher tuition rates affect all Vermont taxpayers because local education spending is funded through the statewide Education fund.

As required by statute and rule, all independent K-12 schools that enrolled publicly funded students for general education in school year 2018/2019 were approved by the State Board, but AOE's processes for reviewing these schools could be improved.



# Recommendations

We make the recommendations in Table 3 to the Secretary of Education.

**Table 3: Recommendations and Related Issues**

Recommendation	Report Pages	Issue
1. Annually send a communication to the school districts reminding them about the statutory requirements pertaining to tuition to be paid to Vermont approved independent schools, including the prohibition on paying tuition to such schools that provide distance learning.	14-17	There are multiple criteria that a school district must consider when deciding the tuition rate that it will pay an approved independent school. There were five school districts that paid a Vermont distance learning school for tuition for students enrolled in this school even though this is prohibited by statute.
2. Modify the applications for approval of independent schools to include an assertion that the school is checking with the Child Protection Registry and the Vulnerable Adult Abuse, Neglect, and Exploitation Registry as required by statute.	20-21	AOE's applications for independent schools seeking approval did not require schools to certify that they requested and obtained information on employees, contractors that may have unsupervised contact with school children, or student teachers from the State's Child Protection Registry and Vulnerable Adult Abuse, Neglect, and Exploitation Registry as required by <a href="#">16 V.S.A. §255</a> .
3. Review whether a NEASC accredited independent school seeking approval or renewal of approval status has a curriculum meeting the requirements in 16 V.S.A. §906.	22	To approve an independent school, <a href="#">16 V.S.A. §166(b)</a> requires the State Board to find that the school provides a minimum course of study in accordance with <a href="#">16 V.S.A. §906</a> . AOE does not require accredited schools to certify that they meet the Vermont requirement, nor does AOE request curriculum documentation to perform such a review themselves.
4. Inform the State Board if an independent school requesting approval or seeking renewal of approval status has weaknesses related one or more criterion for approval contained Rule 2226 and/or has outstanding recommendations from NEASC.	22-23	In making its recommendations to the State Board, AOE submits a summary of its findings. However, AOE did not always inform the State Board if its review or that of NEASC found a weakness related to one or more approval criterion contained in <a href="#">Rule 2226</a> or other problems.
5. Establish procedures to ensure that it submits recommendations to the State Board regarding the renewal of independent school's approval no later than five years after the beginning date of the last approval period.	23-24	Vermont statute states that the approval of independent schools cannot exceed five years. The approval period of five of the 15 schools we reviewed (33 percent) exceeded this five year maximum.

Recommendation	Report Pages	Issue
6. Modify census and Statbook instructions to specify how LEAs should report their enrollment and financial data for schools in interstate school districts.	24	The two interstate school districts reported their data inconsistently. One of these districts reported its enrollment and costs as if it was for a public school while the other district reported them as if it was for out-of-state schools. AOE's instructions did not address how interstate school districts should report their enrollment and financial data.
7. Establish and conduct procedures to annually review and ensure the accuracy and consistency of Statbook and SW-1 Tuition Worksheet data.	24-25	We found numerous errors in Statbook and its SW-1 Tuition Worksheets. Ultimately the LEAs are responsible for submitting accurate and complete data to AOE. Nevertheless, more robust AOE validation of LEA submissions could improve data quality. While Statbook has business rules for LEA data submissions, these rules were not always enforced.

## Management's Comments

On March 25, 2021, the Secretary of the Agency of Education provided comments on a draft of this report, which are reprinted in Appendix IV.

---

## Appendix I

### Scope and Methodology

---

To address Objective 1, we consulted with AOE officials and reviewed system instructions to identify the best sources of enrollment and expenditure data for students attending approved independent schools and out-of-state schools at public expense. These procedures identified the following systems.

- Student enrollment. The Statewide Longitudinal Data System and its predecessor system (also called census data).
- Students eligible or receiving special education services. Special Education Child Count system.
- Expenditures. Statbook including data from a worksheet called the SW-1 Tuition Worksheet.

AOE provided us with files from these systems for school years 2008/2009 to 2018/2019 that we loaded into our data analysis software. We then performed various data reliability checks of the data to look for anomalies and errors. We also reviewed the systems' business rules and obtained clarifications from AOE staff about (1) the validation that they perform of the data and (2) how to interpret and combine certain data fields to obtain the information for our objectives. Lastly, we compared data from our analyses to various published reports issued by AOE and sought explanations of significant differences, as needed.

We concluded that that the census and child count data were sufficiently reliable for purposes of our audit objective.<sup>52</sup> However, we found material errors in the expenditure data in Statbook and errors and incomplete data in the SW-1 Tuition Worksheets. While we adjusted for errors, we concluded that the existence of these errors coupled with missing SW-1 Tuition Worksheets in some years and limitations in the analyses that we could conduct<sup>53</sup> meant the expenditure data we used was of undetermined reliability for purposes of our objectives. However, because the Statbook data is the sole centralized source of school financial data we decided to use the data from this system for limited expenditure analyses in Objective 1 and for tuition rates paid in Objective 2.

For Objective 2, we reviewed the statute that set the criteria for the tuition rates that school districts can pay (primarily [Chapter 21 of Title 16](#)). We obtained the general education tuition rates paid for the 2018/2019 school year to approved independent schools from the SW-1 Tuition Worksheet.

---

<sup>52</sup> This conclusion does not necessarily mean that the data in these collections are error-free.

<sup>53</sup> For example, we could not check whether the total Statbook expenditures for tuition for special education agreed to the SW-1 Tuition Worksheet prior to school year 2017/2018 because AOE did not require special education be reported on the SW-1 worksheet until that year.

---

## Appendix I

### Scope and Methodology

---

After correcting the errors identified in our data reliability testing, we determined the basis of these tuition rates by comparing them to AOE's 2018/2019 average announced tuition of elementary and secondary schools report.

For those schools who received tuition rates that differed from the average announced tuition report, we determined whether other statutory criteria applied, as follows:

- Confirmed that tuition rates were approved by voters by reviewing the results of school district votes.
- Identified approved independent schools that were also functioning as an approved area career technical center.
- Obtained a memo from AOE identifying a school as meeting education quality standards.
- Obtained from independent schools, the tuition rate charged for the 2018/2019 school year.

We also consulted with an AOE attorney about tuition rates for students on plans under Section 504 of the Federal Rehabilitation Act of 1973 who receive general education services and obtained documentation from the school districts confirming these rates.

With respect to Objective 3, we reviewed the Vermont statute and rule series pertaining to the approval of independent schools. We reviewed AOE's review procedures and discussed the process the agency followed with staff who conducted the reviews. We also reviewed documentation about NEASC accreditation, including its evaluation and policy and procedure manuals.

We extracted a listing of independent schools who had enrolled publicly tuitioned general education students in school years 2018/2019 from our Objective 1 results. We confirmed that each of these schools had been approved by the State Board of Education by reviewing certificates provided by AOE and the meeting minutes of the State Board.

We then selected 15 approved independent schools—nine schools that had been accredited by NEASC and six schools that underwent the AOE review. These 15 schools enrolled 92 percent of publicly tuitioned students receiving general education in approved independent schools in school year 2018/2019.

---

## Appendix I

### Scope and Methodology

---

For these 15 schools, we evaluated AOE's documentation of their review of these schools by comparing them to the requirements in the statute and rule. AOE's review documentation included:

- Signed applications from the schools and supporting documentation (e.g., NEASC accreditation letters, documentation of financial capacity).<sup>54</sup>
- For schools that were not accredited, copies of the AOE's review checklists and site visit reports.
- AOE's recommendations to the State Board.

We also interviewed an AOE staff member who conducts school reviews to obtain clarification, as needed.

Generally accepted government auditing standards (GAGAS) require that we identify internal control components and principles that are significant to our audit objective and perform procedures to evaluate those that are significant. The State's Department of Finance and Management recommends to State entities that they use the COSO model<sup>55</sup> so we used this same model in our consideration of internal control. As required by GAGAS, Table 4 identifies the internal control component and principles that we determined were significant to our audit objectives and briefly describes the work that we performed.

---

<sup>54</sup> AOE did not provide copies of completed applications for three schools because this documentation was not in electronic form and AOE staff members were not working in their offices due to restrictions caused by the pandemic.

<sup>55</sup> *2013 Internal Control—Integrated Framework* © Committee of Sponsoring Organizations of the Treadway Commission (COSO). All rights reserved. Used with permission. COSO is a joint initiative of accountants, financial executives, and internal auditors dedicated to providing guidance to improve organizational performance.

Appendix I  
 Scope and Methodology

**Table 4: Summary of Internal Control Work**

Objectives	Internal Control Component	Internal Control Principle	Description of Work Performed
1, 2	Control activities, which are the actions established by policies and procedures to help ensure that management directives to mitigate risks to the achievement of objectives are carried out.	The organization selects and develops general control activities over technology to support the achievement of objective.	<ol style="list-style-type: none"> <li>1. Review AOE’s instructions to schools and LEAs for data reporting.</li> <li>2. Review the business rules related to our audit objectives and test a selection of those rules.</li> </ol>
3	Control activities, which are the actions established by policies and procedures to help ensure that management directives to mitigate risks to the achievement of objectives are carried out.	The organization deploys control activities through policies that establish what is expected and procedures that put policies in action.	<ol style="list-style-type: none"> <li>1. Review AOE’s procedures for reviewing independent schools.</li> <li>2. Select 15 approved independent schools and assess whether AOE’s procedures were followed.</li> </ol>

We conducted this performance audit in accordance with GAGAS, which requires that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

---

## Appendix II Abbreviations

---

AOE	Agency of Education
LEA	Local Education Agencies
NEASC	New England Association of Schools and Colleges
V.S.A.	Vermont Statutes Annotated

## Census Data

### Public Schools Fall Census

#### Collection Timeframe

Students enrolled in a public school based on attendance during 20-day period in the Fall.

#### Source

Submitted to AOE by public schools.

#### Level of Detail

Data is submitted at an individual student level.

#### Audit Use

- Total public school enrollment.
- Historical academies enrollment for school years 2009/2010 – 2017/2018.

### Tuitioned Student Census

#### Collection Timeframe

Students enrolled in a Vermont approved independent school or out-of-state school at a school district's expense based on attendance during 20-day period in the Fall.

#### Source

Submitted to AOE by LEAs.

#### Level of Detail

Data is submitted at an individual student level.

#### Audit Use

- Total independent school enrollment paid by public tuition except for historical academies enrollment for school years 2009/2010 – 2017/2018.
- Total out-of-state school enrollment paid by public tuition.



## Special Education Child Count

### Collection Timeframe

Students that receive special education services as of December 1<sup>st</sup> of a given year.

### Source

Submitted to AOE by LEAs.

### Level of Detail

Data is submitted at an individual student level.

### Audit Use

Identify students in the other census data sets who received special education services.

## Statbook Data

### Financial Data

### Collection Timeframe

LEA revenue and expenditures by fiscal year (July 1 to June 30 of a given year).

### Source

Submitted to AOE by LEAs.

### Level of Detail

Data is submitted at the school district level.

### Audit Use

- Tuition paid to Vermont approved independent schools.
- Tuition paid to out-of-state public and private schools.
- Excess special education costs paid to approved independent and out-of-state schools. Excess costs are defined as costs for special education services that are not covered by general education or special education tuition.

---

## Appendix III

### AOE Data Sources Used in This Report

---

- Costs pertaining to transportation services and services purchased from approved independent and out-of-state schools other than for tuition and transportation.

#### Limitation for Audit Purposes

- Special education excess costs, transportation services costs, and other services purchased costs combine the costs for Vermont independent schools and out-of-state schools.
- We concluded that the data in this collection was of undetermined reliability and limited our reporting to providing overall expenditure and tuition amounts in Objective 1.

### SW-1 Tuition Worksheet

#### Collection Timeframe

LEA tuition expenditures and full-time-equivalent students by fiscal year (July 1 to June 30 of a given year).

#### Source

Submitted to AOE by LEAs.

#### Level of Detail

Data is submitted at the school district level on tuition that is paid to specified schools.

#### Audit Use

- Corroborate (and correct as necessary) the expenditure data in the financial data collection.
- Determine the tuition rates school districts paid to approved independent schools in fiscal year 2019.

#### Limitation for Audit Purposes

- We concluded that the data in this collection was of undetermined reliability and limited our reporting to providing the tuition rate data in Objective 2.
- Did not include special education tuition until fiscal year 2017.
- LEAs did not always submit this required worksheet.

## Appendix IV Management's Comments from the Agency of Education

The following is a reprint of management's response to a draft of this report.



State of Vermont  
1 National Life Drive, Davis 5  
Montpelier, VT 05620-2501  
[education.vermont.gov](http://education.vermont.gov)

[phone] 802-828-1130  
[fax] 802-828-6430

Agency of Education

March 25, 2021

The Honorable Douglas Hoffer  
Vermont State Auditor  
132 State Street  
Montpelier, Vermont 05633

RE: Agency of Education Response to Audit Report, *More Students Attending Vermont Approved Independent Schools and Fewer Attending Out-of-State Schools at Public Expense*

Dear Auditor Hoffer,

Thank you for the opportunity to respond to the results of your office's audit report entitled "More Students Attending Vermont Approved Independent [Private] Schools and Fewer Attending Out-of-State Schools at Public Expense." As with part one of this audit, I appreciate the information and believe it will serve as a useful resource for members of the public who may not be aware of Vermont's framework of public and independent schools.

There are several recommendations included in the report that will assist the Agency of Education in improving our processes for independent school approval. Two of those are especially helpful, and I want to thank your staff for pointing them out. First, the current approval application does not require that schools certify that they have complied with 16 V.S.A. § 255, which requires that independent school employees, contractors that may have unsupervised contact with children and student teachers are checked against the Child Protection Registry and Vulnerable Abuse, Neglect and Exploitation Registry. Second, the report points out instances when approval of independent schools has extended beyond the 5-year statutory maximum. Both of these findings will allow the Agency of Education to review and amend our process for approval and follow the audit's recommendations for improvement.

The report concludes a lengthy and labor-intensive project undertaken by your office and many Agency of Education staff members. I want to recognize the professionalism and diligence that members of your office have brought to this audit and report.

Sincerely,

A handwritten signature in blue ink that reads "Dan French".

Daniel M. French, Ed.D., Secretary  
Vermont Agency of Education

