

**S.219v. 3.2**

**Senate Committee on Education**

Testimony by Jim Des Marais

Overview of significant changes from v.2.1:

**(1) Creates new category of “approved independent schools eligible to receive public tuition”. To qualify, the school must:**

- (A) be an approved independent school (SBE approval);
- (B) comply with all federal and State antidiscrimination laws applicable to Vermont public schools;
- (C) not use public tuition to support religious instruction or worship or the propagation of religious views; and
- (D) enroll any student with an individualized education program who requires special education services and who is placed by the student’s individualized education program team or by the local education agency (LEA) (Act 173 requirement).

**(2) Centralizes administration of the approval process with the SBE/AOE:**

- (A) SBE will receive school compliance certifications and will approve independent schools that are eligible to receive public tuition;
- (B) AOE will maintain list of approved independent schools eligible to receive public tuition on its website; and
- (C) school districts will only pay tuition to approved independent schools eligible to receive public tuition that are on the AOE list.

**(3) Is designed to be consistent with SBE’s draft update to its independent school approval rules (Series 2200).**

**(4) Responds to issues raised in the Supreme Court oral argument in *Makin* case:**

- (A) Adds findings on the reason Vermont allows nonoperating districts to pay tuition to independent schools—not like other state tuitioning programs because in Vermont these independent schools serve a public purpose in educating students from districts that do not have public schools; and

(B) strengthens legal defense of the tuitioning system (under the Establishment Clause of the U.S. Constitution) by eliminating the ability of parents in nonoperating districts to choose the school—this decision shifts to the nonoperating district’s school board, with input from parents.

**(5) Makes conforming changes throughout Title 16 to reference approved independent schools eligible to receive public tuition (pages 10-20).**