

1 H.813

2 Introduced by Representatives Casey of Montpelier, Arsenault of Williston,
3 Austin of Colchester, Brady of Williston, Burrows of West
4 Windsor, Chapin of East Montpelier, Graning of Jericho,
5 Hooper of Randolph, LaMont of Morristown, Logan of
6 Burlington, Masland of Thetford, McGill of Bridport, Minier of
7 South Burlington, Priestley of Bradford, Rachelson of
8 Burlington, Sibia of Dover, Stevens of Waterbury, Stone of
9 Burlington, Torre of Moretown, Waszazak of Barre City, and
10 Yacovone of Morristown

11 Referred to Committee on

12 Date:

13 Subject: Education; approved independent schools; education quality
14 standards; school designation

15 Statement of purpose of bill as introduced: This bill proposes to require
16 approved independent schools to (1) comply with the education quality
17 standards under 16 V.S.A. § 165; (2) maintain an open enrollment policy for
18 publicly tuitioned students; (3) hold meetings of their governing bodies in
19 accordance with Vermont's Open Meeting Law; (4) agree to comply with
20 access to public records under 1 V.S.A. chapter 5, subchapter 3; (5) establish
21 and maintain an accounting system that meets criteria established by the State

1 Board; (6) prepare and distribute an annual budget to the Agency of Education
2 and sending school districts; (7) keep school buildings and grounds safe and in
3 good repair; (8) regulate or prohibit firearms or other weapons on school
4 premises; (9) adopt a truancy policy; (10) employ or contract with licensed
5 special educators to meet the needs of enrolled students; (11) employ or
6 contract with a school nurse consistent with the requirements contained in
7 State Board of Education rules; (12) agree not to charge publicly tuitioned
8 students fees or additional tuition above the amount received pursuant to
9 16 V.S.A. chapter 21 from sending school districts; and (13) recognize and
10 bargain in good faith with teachers' and administrators' organizations by
11 complying with the provisions of 16 V.S.A. chapter 57.

12 An act relating to ensuring the same accountability, transparency, and
13 education standards for all schools receiving public funding

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

15 Sec. 1. 16 V.S.A. § 165 is amended to read:

16 § 165. EDUCATION QUALITY STANDARDS; EQUAL EDUCATIONAL
17 OPPORTUNITIES; INDEPENDENT SCHOOL MEETING
18 EDUCATION QUALITY STANDARDS

19 (a) In order to carry out Vermont's policy that all Vermont children will be
20 afforded educational opportunities that are substantially equal in quality, each

1 Vermont public school, including each career technical center, and each
2 approved independent school shall meet the following education quality
3 standards:

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

15 (2) The school, at least annually, reports student performance results to
16 community members in a format selected by the school board or governing
17 body of an approved independent school. In the case of a regional career
18 technical center, the community means the school districts in the service
19 region. The school report shall include:

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

1 (B) [Repealed.]

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

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

7 (E)–(G) [Repealed.]

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

12 (I) [Repealed.]

13 (J) If the school is a secondary school, information and supporting
14 data presented in a manner designed to protect student confidentiality on the
15 dropout and graduation rates.

16 (K) Data provided by the Secretary that enable a comparison with
17 other schools, or school districts if school level data are not available, for cost-
18 effectiveness. The Secretary shall establish which data are to be included
19 pursuant to this subdivision and, notwithstanding that the other elements of the
20 report are to be presented in a format selected by the school board or governing
21 body, shall develop a common format to be used by each school in presenting

1 the data to community members. The Secretary shall provide the most recent
2 data available to each school ~~no later than~~ on or before October 1 of each year.
3 Data to be presented include student-to-teacher ratio, administrator-to-student
4 ratio, administrator-to-teacher ratio, and cost per pupil.

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

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

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

12 (C) educational materials and school facilities; and

13 (D) access to current technology.

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

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

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

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

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

13 (9) The school complies with average class size minimum standards;
14 provided, however, that when class size minimums apply to content areas, an
15 individual class may be smaller than the minimum average. As used in this
16 subdivision, “content area” means a group of courses within a specific
17 licensing endorsement area.

18 (A) Class size standards.

19 (i) The average class size minimum for first-grade classes shall be
20 10 students.

1 (ii) The average class size minimum for grades two through five
2 shall be 12 students.

3 (iii) The average class size minimum for grades six through eight
4 in all required content areas shall be 15 students.

5 (iv) The average class size minimum for grades nine through 12 in
6 all required content area classes shall be 18 students.

7 (v) Multiage classrooms for grades kindergarten through eight
8 shall be limited to two grade levels per classroom.

9 (vi) Prekindergarten, kindergarten, career and technical education,
10 flexible pathways, terminal courses, advanced placement courses, courses that
11 require specialized equipment, and driver's education classes shall be excluded
12 from the class size minimum requirements in this subdivision (9). Small group
13 services for the purpose of providing special education, supplemental or
14 targeted academic intervention, or English learner instruction shall also be
15 excluded from the class size minimum requirements in this subdivision (9).

16 (vii) Class sizes shall not exceed the maximum occupancy limits
17 established by local and State fire codes, including egress and safety
18 requirements.

19 (B) Waivers. If a school board or governing body of an approved
20 independent school determines that it operates a school that is unable to
21 comply with the class size minimum standards due to geographic isolation, or a

1 school has developed an implementation plan to meet the standards contained
2 in this subdivision (9) that may include consolidation or merger, the school
3 board or governing body may ask the State Board of Education to grant it
4 waiver from this subdivision (9). The State Board shall define what qualifies
5 as geographic isolation in its rules adopted pursuant to subdivision (a)(3) of
6 this section. The State Board's decision shall be final.

7 (C) State Board action. If the Secretary determines that a school is
8 not meeting the class size minimum standards set forth in this subdivision (9)
9 over the course of three consecutive school years, the Secretary may
10 recommend to the State Board one or more of the actions listed in subsection
11 (b) of this section, regardless of whether the school is meeting all other
12 education quality standards. The State Board shall then follow the procedure
13 of subsection (c) of this section.

14 (b) Annually, the Secretary shall determine whether students in each
15 Vermont public school and each approved independent school are provided
16 educational opportunities substantially equal to those provided in other public
17 and approved independent schools. If the Secretary determines that a school is
18 not meeting the education quality standards listed in subsection (a) of this
19 section or that the school is making insufficient progress in improving student
20 performance in relation to the standards for student performance set forth in
21 subdivision 164(9) of this title, the Secretary shall describe in writing actions

1 that a district or governing body must take in order to meet either or both sets
2 of standards and shall provide technical assistance to the school. If the school
3 fails to meet the standards or make sufficient progress within two years
4 following the determination, the Secretary shall recommend to the State Board
5 one or more of the following actions:

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

8 (2) in the case of a public school, the State Board adjust supervisory
9 union boundaries or responsibilities of the superintendency pursuant to section
10 261 of this title;

11 (3) in the case of a public school, the Secretary assume administrative
12 control of an individual school, school district, or supervisory union, including
13 budgetary control to ensure sound financial practices, only to the extent
14 necessary to correct deficiencies;

15 (4) in the case of a public school, the State Board close an individual
16 school or schools and require that the school district pay tuition to another
17 public school or an approved independent school pursuant to chapter 21 of this
18 title; ~~or~~

19 (5) in the case of a public school, the State Board require two or more
20 school districts to consolidate their governance structures; or

1 (6) in the case of an approved independent school, the State Board
2 revoke the school's approval.

3 (c) The State Board, after offering the school board or governing body of
4 an approved independent school an opportunity for a hearing, shall either
5 dismiss the Secretary's recommendation or order that one or more of the
6 actions listed in subsection (b) of this section be taken, as applicable. The
7 action ordered by the State Board shall be the least intrusive consistent with the
8 need to provide students attending the school substantially equal educational
9 opportunities. A school board or governing body aggrieved by an order of the
10 State Board may appeal the order in accordance with the Rules of Civil
11 Procedure.

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

16 (e) If the Secretary determines at any time that the failure of a school to
17 meet the education quality standards listed in subsection (a) of this section is
18 severe or pervasive, potentially results in physical or emotional harm to
19 students or significant deprivation of equal education opportunities, and the
20 school has either unreasonably refused to remedy the problem or its efforts
21 have proved ineffective, the Secretary may recommend to the State Board one

1 or more of the actions listed in subsection (b) of this section, as applicable.

2 The State Board shall then follow the procedure of subsection (c) of this
3 section.

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

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

13 (2) ~~two or more years following a determination that the school is not~~
14 ~~meeting the education quality standards or that the school is making~~
15 ~~insufficient progress in improving student performance, the school fails to~~
16 ~~meet the standards or make sufficient progress toward meeting the standards.~~

17 [Repealed.]

18 (g) In addition to the education quality standards provided in subsection (a)
19 of this section, each Vermont school district shall meet the school district
20 quality standards adopted by rule of the Agency of Education regarding the
21 business, facilities management, and governance practices of school districts.

1 These standards shall include a process for school district quality reviews to be
2 conducted by the Agency of Education. Annually, the Secretary shall publish
3 metrics regarding the outcomes of school district quality reviews.

4 Sec. 2. 16 V.S.A. § 166 is amended to read:

5 § 166. APPROVED AND RECOGNIZED INDEPENDENT SCHOOLS

6 (a) Authority. An independent school may operate and provide elementary
7 education or secondary education if it is either approved or recognized as set
8 forth in this section.

9 (b) Approved independent schools. On application, the State Board shall
10 approve an independent school that offers elementary or secondary education
11 if it finds, after opportunity for hearing, that the school ~~provides a minimum~~
12 ~~course of study pursuant to section 906 of this title~~ meets education quality
13 standards pursuant to section 165 of this chapter and that it substantially
14 complies with all statutory requirements for approved independent schools and
15 the Board's rules for approved independent schools. An independent school
16 that intends to accept public tuition shall be approved by the State Board only
17 on the condition that the school agrees, notwithstanding any provision of law
18 to the contrary, to enroll any student who requires special education services
19 and who is placed in or referred to the approved independent school as an
20 appropriate placement and least restrictive environment for the student by the
21 student's individualized education program team or by the local education

1 agency; provided, however, that this requirement shall not apply to an
2 independent school that limits enrollment to students who are on an
3 individualized education program or a plan under Section 504 of the
4 Rehabilitation Act of 1973, 29 U.S.C. § 794, and who are enrolled pursuant to
5 a written agreement between the local education agency and the school.
6 Except as provided in subdivision (6) of this subsection, the Board's rules must
7 at minimum require that the school have the resources required to meet its
8 stated objectives, including financial capacity, ~~faculty who are qualified by~~
9 ~~training and experience in the areas in which they are assigned,~~ and physical
10 facilities and special services that are in accordance with any State or federal
11 law or regulation. ~~Approval may be granted without State Board evaluation in~~
12 ~~the case of any school accredited by a private, State, or regional agency~~
13 ~~recognized by the State Board for accrediting purposes, provided that the State~~
14 ~~Board shall determine that the school complies with all student enrollment~~
15 ~~provisions required by law.~~

16 * * *

17 (5) The State Board may revoke, suspend, or impose conditions upon
18 the approval of an approved independent school, after having provided an
19 opportunity for a hearing, for substantial failure to comply with ~~the minimum~~
20 ~~course of study~~ education quality standards, for failure to demonstrate that the
21 school has the resources required to meet its stated objectives, for failure to

1 comply with statutory requirements or the Board's rules for approved
2 independent schools, or for failure to report under subdivision (4) of this
3 subsection ~~(b)~~. Upon that revocation or suspension, students required to attend
4 school who are enrolled in that school shall become truant unless they enroll in
5 a public school, an approved or recognized independent school, or a home
6 study program.

7 * * *

8 (8)(A) If an approved independent school experiences any of the
9 following financial reporting events during the period of its approved status,
10 the school shall notify the Secretary of Education within five days after its
11 knowledge of the event unless the failure is de minimis:

12 (i) the school's failure to file its federal or State tax returns when
13 due, after permissible extension periods have been taken into account;

14 (ii) the school's failure to meet its payroll obligations as they are
15 due or to pay federal or State payroll tax obligations as they are due;

16 (iii) the school's failure to maintain required retirement
17 contributions;

18 (iv) the school's use of designated funds for nondesignated
19 purposes;

20 (v) the school's inability to fully comply with the financial terms
21 of its secured installment debt obligations over a period of two consecutive

1 months, including the school's failure to make interest or principal payments
2 as they are due or to maintain any required financial ratios;

3 (vi) the withdrawal or conditioning of the school's accreditation
4 on financial grounds by a private, State, or regional agency recognized by the
5 State Board for accrediting purposes; or

6 (vii) the school's insolvency, as defined in 9 V.S.A. § 2286(a).

7 (B)(i) If the Secretary reasonably believes that an approved
8 independent school lacks financial capacity to meet its stated objectives during
9 the period of its approved status, then the Secretary shall notify the school in
10 writing of the reasons for this belief and permit the school a reasonable
11 opportunity to respond.

12 (ii) If the Secretary, after having provided the school a reasonable
13 opportunity to respond, does not find that the school has satisfactorily
14 responded or demonstrated its financial capacity, the Secretary may establish a
15 review team that, with the consent of the school, includes a member of the
16 Council of Independent Schools, to:

17 (I) conduct a school visit to assess the school's financial
18 capacity;

19 (II) obtain from the school such financial documentation as the
20 review team requires to perform its assessment; and

1 (III) submit a report of its findings and recommendations to the
2 State Board.

3 (iii) If the State Board concludes that an approved independent
4 school lacks financial capacity to meet its stated objectives during the period of
5 its approved status, the State Board may take any action that is authorized by
6 this section.

7 (iv) In considering whether an independent school lacks financial
8 capacity to meet its stated objectives during the period of its approved status
9 and what actions the State Board should take if it makes this finding, the State
10 Board may consult with, and draw on the analytical resources of, the Vermont
11 Department of Financial Regulation.

12 (C) Information provided by an independent school under this
13 subsection that is not already in the public domain is exempt from public
14 inspection and copying under the Public Records Act and shall be kept
15 confidential.

16 (9)(A) In addition to complying with all other statutory requirements for
17 approved independent schools and the Board's rules for approved independent
18 schools, in order to be approved by the State Board, a school shall:

19 (i) adopt and implement a comprehensive plan for responding to
20 student misbehavior, as required pursuant to section 1161a of this title, which
21 includes due process procedures for suspension or expulsion that offer the

1 same level of due process as the public school or schools operated by the
2 school district within which the approved independent school is physically
3 located;

4 (ii) maintain an open enrollment policy for publicly tuitioned
5 students and shall not use an admissions process for publicly tuitioned students
6 that includes interviews, entrance exams, academic history, required campus
7 visits, or consideration of ability to pay for any costs or fees;

8 (iii) hold meetings of its governing body in accordance with
9 Vermont's Open Meeting Law pursuant to 1 V.S.A. chapter 5, subchapter 2;

10 (iv) agree that for the purposes of access to public records, the
11 school is a public agency and shall comply with the provisions of 1 V.S.A.
12 chapter 5, subchapter 3;

13 (v) establish and maintain a system for receipt, deposit,
14 disbursement, accounting, control, and reporting procedures that meets the
15 criteria established by the State Board pursuant to subdivision 164(15) of this
16 title and that ensures that all payments are lawful and in accordance with a
17 budget adopted or amended by the governing body of the school;

18 (vi) establish with the advice and consent of the Auditor of
19 Accounts and the Secretary of Education a system of accounts for the proper
20 control and reporting of the finances of the school and for stating the annual
21 financial condition of the school;

1 (vii) prepare and distribute to the Agency of Education and the
2 school board of each district that pays tuition to the school pursuant chapter 21
3 of this title a proposed annual budget that includes the information required
4 under subdivision 563(11)(C) of this title;

5 (viii) keep the school buildings and grounds in good repair,
6 suitably equipped, insured, and in safe and sanitary conditions at all times;

7 (ix) regulate or prohibit firearms or other dangerous or deadly
8 weapons on school premises by, at a minimum, adopting and implementing a
9 policy at least consistent with section 1166 of this title and 13 V.S.A. § 4004,
10 relating to a student who brings a firearm to or possesses a firearm at school;

11 (x) adopt and implement a truancy policy that addresses
12 communication with sending school districts and aligns with the requirements
13 of chapter 25, subchapter 3 of this title;

14 (xi) employ or contract with licensed special educators to meet the
15 needs of enrolled students;

16 (xii) employ or contract with a licensed school nurse consistent
17 with the requirements contained within Rule 2121.2.1 of the Agency of
18 Education, Education Quality Standards (CVR 22-000-003);

19 (xiii) agree not to charge publicly tuitioned students any fees or
20 additional tuition above the amount received by the school from the student's
21 school district of residence pursuant to chapter 21 of this title; and

(B) No private right of action is created by this subdivision (9) against an approved independent school approved by the State Board for failure to comply with any of the requirements in this subdivision (9). The State Board is authorized to use its powers under subdivision (5) of this subsection (b) to revoke, suspend, or impose conditions on the eligibility of an approved independent school for failure to comply with these requirements. The Board shall establish and maintain a process to receive, investigate, and resolve allegations of noncompliance with these requirements in a manner that provides due process for the person or persons making the allegation and the approved independent school against which the allegation is made. A person shall not coerce, threaten, interfere with, or otherwise discriminate against any individual who alleges noncompliance with the requirements under this subdivision (9).

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1 performance of those students. In addition, the school shall provide data
2 related to the assessment or assessments as required by the Secretary.

3 Sec. 3. STATE BOARD OF EDUCATION; RULEMAKING

4 On or before January 1, 2027, the State Board of Education shall initiate
5 rulemaking to amend the approved independent school rule 2200 series,
6 Agency of Education, Independent School Program Approval (22-000-004),
7 pursuant to 3 V.S.A. chapter 25, to ensure compliance and consistency with
8 this act.

9 Sec. 4. EFFECTIVE DATE

10 This act shall take effect on July 1, 2026.