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## Independent School Approval Process

**Testimony To:** House Committee on Education

**Respectfully Submitted by:** Lori Dolezal, Ed.D., Interim Director of Education Quality & Director of School Improvement, Agency of Education

**Subject:** Independent School Approval Process

**Date:** May 1, 2025

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### Background

The approval and renewal process for Independent Schools abides by guidelines identified in 16 V.S.A. § 166 (b) and State Board Rule Series 2200. The State Board of Education has the ultimate authority for independent school approval. However, the implementation of these regulations requires the AOE to conduct reviews within the scope of oversight assigned by the educational statutory requirements and rules. This work involves collaboration across several AOE divisions, as well as coordination with other agencies within state government.

The AOE is currently addressing a backlog in this approval review process, due to several factors, including the COVID pandemic and recovery, litigation proceedings, and iterative revisions to processes, technical assistance, and application documents, to ensure compliance with Rule revisions. The AOE is committed to resolving this backlog expeditiously and is ensuring sufficient resources and protocols are in place to do so.

The purpose of this testimony is to provide an overview of the approval and investigation process, as well as process improvements and protocols that guide this work.

### Independent School Approval

Approved Independent Schools apply for approval, under guidelines identified in 16 V.S.A. § 166 (b) and State Board Rules 2223–2227 and 2228. Upon receipt and review of an application, individuals are identified to conduct an onsite visit and provide a written report of findings to the Agency of Education. This process includes receipt and review of an application, an onsite visit, and a report of findings/recommendation from the individual(s) conducting the onsite visit. Please reference the **Independent School Approval Protocol** for details on the process.

The process for initial approval and renewal of approval are identical. The State Board of Education has the ultimate authority for independent school approval. The AOE regulatory review is described and determined by State Board Rules.



The AOE will continue to actively use the knowledge we receive as an opportunity to review and improve our processes, maximizing our ability to ensure—within the boundaries of our oversight authority—the safety, well-being, and educational experiences of all students in Vermont schools. Areas of process improvement include strengthening coordination with other agencies in the review and reporting process, and strengthening collaboration with the State Board of Education to effectively bridge the gap between policy/rules and practice, ensuring that the full intent of the rules are met during process implementation. If/when apparent gaps exist, it may be necessary to explore whether rule changes are necessary to achieve the shared goals of the AOE and SBE.

## **Hiring Procedures and Responsibilities**

Hiring decisions are ultimately the responsibility of school officials. Vermont school officials (including those at independent schools) retain the discretion to extend or rescind employment offers to individuals, based on background check results, and subsequent employee actions/behavior. Schools have the responsibility to uphold these laws, to which they are bound, daily. The AOE reviews documentation provided by Vermont Crime Information Center (VCIC) for educational staff during a site review.

Per [16 V.S.A. § 258](#), “Each job application provided by a school district or independent school shall contain a statement that, if the superintendent or headmaster is prepared to recommend the person for a job, the applicant will be required to undergo a criminal record check, including an FBI fingerprint record check, and that employment may be dependent upon the results of the check.”

Per [16 V.S.A. § 255](#), “Superintendents, headmasters of recognized or approved independent schools, and their contractors shall request criminal record information [from the [Department of Public Safety](#)] for... the person a superintendent or headmaster is prepared to recommend for any full-time, part-time, or temporary employment, [including] any person directly under contract to an independent school or school district who may have unsupervised contact with school children [and] any employee of a contractor under contract to an independent school or school district who is in a position that may result in unsupervised contact with school children.”

Additionally, “...if there is a record relating to any crimes of a sexual nature involving children, the Vermont Crime Information Center shall send this record to the Secretary who shall notify the headmaster in writing, with a copy to the person about whom the request was made, that the record includes one or more convictions for a crime of a sexual nature involving children.”

Per [16 V.S.A. § 256](#), a person convicted of a sex offense that requires registration pursuant to 13 V.S.A. chapter 167, subchapter 3 shall not be eligible for employment under this section. “...If the information is a criminal record or notice of the existence of a criminal record, send it to the Secretary for secure maintenance in a central records repository... The Secretary shall maintain the notice or record in the repository at least until the person ceases working for a Vermont school district or independent school for a period of one year or more or until the person requests that the record be destroyed.”

## Therapeutic Schools

*A Therapeutic Approved Independent School (or Therapeutic Independent School or Therapeutic School)* is an approved independent school that limits enrollment to students who are on an IEP or plan under Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 and who are enrolled pursuant to a written agreement between an LEA and the school. These schools are eligible to receive public tuition, which is inclusive of both general and special education services and is at a rate approved by the Agency of Education. Per 16VSA §2973 (2)(A) The Secretary of Education shall set, after consultation with independent schools in Vermont, and based on the level of services provided by the schools, the maximum rates to be paid by the Agency and supervisory unions or school districts for tuition, room, and board for residential placement of students who require special education services. The amount charged by an independent school for tuition shall reflect the school's actual or anticipated costs of providing special education services to the student and shall not exceed the maximum rates set by the Secretary, provided that the Secretary may permit charges in excess of these maximum rates where the Secretary deems warranted.

Also noted in Rule 2200 Section 2232 (a), the rate for each therapeutic independent school shall be no more than the costs that are reasonably related to the level of services provided by the school.

Therapeutic Schools are one group of independent schools that are approved to receive public tuition and therefore site reviews for therapeutic schools include an examination of special education services. A Special Education team liaison/reviewer oversees this portion of the site review and drafts the pertinent sections of the review report.

Section 2224.1.2 of Rule 2200, indicates that site visits “shall be coordinated with other agencies of state government that inspect such facilities.” It is important to note that some therapeutic schools are also classified as residential programs, for which the review process entails coordination with other state agencies. The implementation of this rule requires the AOE to conduct examination within the scope of oversight related to educational statutory requirements and rules (see **Site Review Checklist**).

Additionally, other agencies (e.g., Department of Children and Families), must conduct examinations, within the scope of their oversight. For example: copies of residential treatment program licensure are received from DCF; certificates of occupancy for all facilities used for educational purposes are received from the Division of Fire Safety; and confirmation of approval of boarding program requirements are received from accrediting agencies Please see **Scope of Oversight** section for additional examples, in addition to the table explaining **Rule Application Distinctions for Therapeutic Schools**.

## Progress on Addressing Renewal Backlog

The backlog of independent school approvals resulted from a combination of factors including a pause in site reviews between March 2020 through September 2021 during the COVID-19 pandemic, litigation matters in 2022, and accommodate transition time to respond to new rule amendments in 2023. To address the backlog, the following tasks have been completed:

## **Revisions to Application Process**

- The Standard Application was revised to meet the Rule changes, approved by the Secretary's Office and the State Board of Education, and posted to AOE website on January 21, 2025.
- Applications were due on April 1, 2025, and all have been received.
- The Independent School Team has updated site review standard operating procedures and accompanying documentation to address, in a timely manner, independent school backlog site reviews under Rule Series 2200 requirements implemented on 7-1-2024.

## **Annual Assurances Compliance**

- Pursuant to State Board of Education Rule Series 2200, effective 07-01-2024, approved Independent Schools must annually sign and submit confirmation of compliance in meeting the requirements of Subsection 2223.2 (Nondiscrimination Requirements for Approved Schools) and, for schools approved to receive public tuition, requirements in Sections 2229 (Approval to Receive Public Tuition; Special Education Approval) and 2231 (Written Agreements Required).
- These new annual assurances were posted for school submission to meet the Feb 15<sup>th</sup> deadline. All submissions have been received and reviewed; all schools are in compliance with these assurances.

## **Internal Program Management**

- AOE developed standard operating procedures for the Special Education Liaison assigned to consult with the Independent School Team during site visits at schools eligible to receive public funds and therapeutic independent schools to ensure provision of special education. Special Education Liaison documentation was completed on October 29, 2024.
- EQ division requested and received additional support in the form of additional resources for the special education component of site reviews. Two Special Education team liaisons were assigned to support application reviews and site visits.
- The Independent School Team held office hours, and individualized technical assistance meetings and office hours to address questions, concerns and to emphasize all new requirements.
- The Independent School and Special Education site review team members met on March 31, 2025, to organize, prioritize and coordinate areas of responsibilities while conducting independent school site reviews.

## Schedule of Review April 2025- June 2026

As per Rule 2200, section 2224.3, the Secretary shall confer with the Chair of the Board on a regular basis to ensure effective coordination and timely review of applications and reapplications for school approval to promote efficiency in scheduling and expediency in decision-making. The team is prioritizing reviews based on chronological renewal dates, as well as prioritizing any current or subsequent schools under risk, including those who may be under investigation.

### April 2025

- Beginning on April 1, 2025, the Independent School Team began reviewing submitted applications, according to the **Independent School Approval Protocol**.
- The team is currently conducting desk audits to check compliance with new 2200 Rules, as well as scheduling site visits, as applicable.

*To ensure we do not compromise the integrity of the process, the following tentative schedules are contingent on timely feedback from all internal and external parties involved in the review process, and receipt of requested additional information from schools. Please see the detailed **Independent School Approval Protocol** for process and timeline details.*

### May-August 2025

- Application reviews for the Category 1 Schools who previously received an onsite are being expedited for final reporting. These schools will not receive a site visit unless concerns are identified in the desk review that cannot be rectified by way of technical assistance.
  - **We anticipate these Category 1 school recommendations will *begin* to be submitted to State Board subcommittee between May- June 2025**
- The Category 3 Schools are NEASC (22) or NNEC (1) accredited and will receive a *desk* review. These schools will not receive a site visit unless concerns are identified in the desk review that cannot be rectified by way of technical assistance (E.g., concerns may include a change to a school's facilities or leadership, or cited complaints against student safety)
  - **We anticipate these Category 3 schools will *begin* to be submitted to State Board subcommittee between May-June 2025**
- The Category 2 Schools require an onsite visit and the Special Education Team Liaison will accompany the Independent School Team on these site visits. These schools were prioritized due to renewal expiration dates June 2020 and June 2021.
  - **We anticipate these reviews will *begin* to be submitted to State Board subcommittee in June-July 2025**
    - The AOE Independent School Team is scheduling three site visits in May, comprised of two therapeutic schools and an accredited school that operates a special education program.
- Currently, there are 23 therapeutic schools, with expiration dates from 2021-25 needing renewal this cycle, 6 of which have already received site visits and are under AOE review now. These report recommendations will be expedited to the SBE

as soon as possible. The remaining therapeutic schools require site visits, two of which will be scheduled for May, seven will be scheduled between September through December 2025, and the remaining scheduled for 2026.

- Site reviews are not conducted during the summer months, as teams need to observe classroom instruction and a typical school day schedule. **Desk audits will continue during these months and reviews not needing site reviews will continue to be submitted to the SBE.**

### **September 2025**

- The Independent School Team will begin scheduling the continuation of pending site reviews.
- **Desk audits will continue, and reviews not needing site reviews will continue to be submitted to the SBE.**

### **October 2025 – December 2025**

The Independent School Team plans to conduct seven therapeutic school site reviews and 1 NEASC accredited school which operates a special education program. These site reviews will clear the backlog of school renewals through June 30 2022.

### **January- June 2026**

- The next set of prioritized independent school site reviews will be for schools with expiration dates of 2023 which includes the remaining therapeutic schools and five accredited schools that operate a special education program.

## **Investigations**

Per [Vermont State Board of Education Rule Series 2200](#), regarding investigations and due process, the “Secretary shall conduct a prompt initial investigation of reports or complaints related to the requirements of this rule and laws that apply to approved independent schools, except for those first referred to other state agencies pursuant to Subsection 2226.2.1(b) (Complaints; Reports).”

Regarding section 2243.8.3 Investigations, the “Secretary may conduct any investigations of a school that the Secretary deems to be necessary and appropriate in order to ensure compliance with the terms of these rules. A school shall permit any authorized representative of the Secretary to visit its facilities and secure relevant information during the normal course of business. The school shall be notified prior to such a visit.”

The AOE uses the following investigations protocol to meet the requirements of Rule 2200, section 2226.2. pertaining to complaints, investigations and due process hearings.

## **Independent School Investigations Protocol**

### **1. File Complaint with Secretary (must be in writing)**



- [Rule Series 2200](#) Section 2226.2.1. Complaints; Reports
2. **Send notification of the complaint and initial investigation**
    - [Rule Series 2200](#) Section 2226.2.2. Investigations; Due Process Hearing (a)
  3. **Conduct Initial Investigation of Reports/Complaints**
    - Investigation and site review related to the requirements of rule and law applicable to independent schools. [Rule Series 2200](#) Section 2226.2.2. Investigations; Due Process Hearing (a)
  4. **Report Initial Investigation findings and recommendations**
    - [Rule Series 2200](#) Section 2226.2.2. Investigations; Due Process Hearing (a) (1-3)
  5. **Secretary determines whether the matter can be resolved through informal means** (e.g., guidance, technical assistance and corrective action)
    - [Rule Series 2200](#) Section 2226.2.2. Investigations; Due Process Hearing (a) (1-3)
    - If informal means are inappropriate, the Secretary may place the approved school on probation and notify the Board of this action
    - The Secretary may conduct a formal investigation without first attempting an informal resolution or imposing probation.

#### **IF AN INVESTIGATION IS WARRANTED**

6. **Secretary informs school of the investigation and appoints investigation team (at least 2 individuals and member of Council of Independent Schools)**
  - [Rule Series 2200](#) Section 2226.2.2. Investigations; Due Process Hearing (a) (4)
7. **Conduct investigation**
  - Agenda Template
  - Records Management
  - Templates
8. **Draft Report of Investigation Assessment Findings and Recommendations**
  - Deliver to Secretary for Final Decision
  - Report Template
  - Ensure report is vetted by all investigation team members
9. **Share Final Report with Council of Independent Schools**
  - [Rule Series 2200](#) Section 2226.2.2. Investigations; Due Process Hearing (a) (4)
  - Report Template
  - Recommendations Memo

#### **10. Comment on Report**

- [Rule Series 2200](#) Section 2226.2.2. Investigations; Due Process Hearing (a) (4)

## **11. Share Final Decision and Recommendations with Board and School**

- [Rule Series 2200](#) Section 2226.2.2. Investigations; Due Process Hearing (b) (c)

## **12. Register Complaints (as applicable)**

- [Rule Series 2200](#) Section 2226.2.2. Investigations; Due Process Hearing (d)

## **13. (If applicable) The Board shall hold a hearing pursuant to 3 V.S.A. Chapter 25 to consider the Secretary's recommendation**

- [Rule Series 2200](#) Section 2226.3. Revocation or Suspension of Approval

## **Council of Independent Schools**

Per 16 V.S.A. § 166, the Council of Independent Schools “is created consisting of 11 members, no fewer than three of whom shall be representatives of recognized independent schools. The Secretary shall appoint nine members from within the independent schools’ community. The Secretary shall appoint two members from the public-at-large. Each member shall serve for two years and may be reappointed for up to an additional two terms. The Council shall adopt rules for its own operation. A chair shall be elected by and from among the members. The duties of the Council shall include advising the Secretary on policies and procedures with respect to independent schools. No hearing shall be initiated under this section before the State Board or by the Secretary until the recommendations of the Council have been sought and received. The recommendations of the Council, including any minority reports, shall be admissible at the hearing.”

## **Pending Investigations**

Current Status of The Inspire School for Autism Investigation:

- The final report was delivered to school, outlining significant concerns, with requirements and deadlines imposed.
- Inspire school is on probation until requirements and deadlines are met.
- If requirements are met, The Inspire school will receive a prioritized renewal review.
- If requirements are not met, the Secretary may recommend to the State Board of Education, the revocation or suspension of approval, per [Rule Series 2200](#) Section 2226.2.2. Investigations; Due Process Hearing (b).

## **Independent School Approval Protocol**



Procedure	Supporting Resources
<p><b>Reapplication: 2224.7</b></p> <p>Six months prior to a school's approval expiration date the Independent Schools Team notifies the school via email and sends the Standard Application</p> <p>June expirations go out the first week of November</p> <p>June expirations are given until January 15<sup>th</sup> to return the completed application</p> <p>October expirations go out the first week of May</p> <p>October expirations are given until July 15<sup>th</sup> to return the completed application</p>	<p>Independent School Team Members</p>
<p><b>Standard Application Review, Visit, Report, and Recommendation: 2224.1.2</b></p> <p>Submitted application is reviewed approximately two weeks after receipt</p> <p>Omissions or additional information needed is requested: expected submission from the school is within two weeks</p> <p>An onsite visit is scheduled for a mutually convenient date.</p>	<p>Possible participation from designated special education liaison if applicable to school program model</p>
<p>Upon completion of the onsite visit, a draft report is prepared by the Independent Schools Team, outlining findings; the report is to be completed within ten days of the visit.</p> <p>After final AOE vetting, the onsite visiting renewal report is forwarded to the Head of School/Principal for review and comments on the accuracy of the report.</p> <p>Upon receipt of the school's response to the onsite visiting report, the AOE Secretary makes the final recommendation regarding approval</p> <p>A green sheet is prepared to provide the Secretary's independent school reapproval recommendations to the Independent Schools</p>	<p>Independent School Team</p> <p>Special Education Independent School liaison, if applicable</p> <p>Division Directors/Supervisors for Independent Schools Team</p>

Subcommittee and the State Board of Education	
The green sheet, visiting team's report and school's response is sent to the State Board of Education Independent Schools Subcommittee for review and consideration of recommendation for reapproval.	TBD at the discretion of the State Board of Education Independent Schools Subcommittee members
The Independent Schools Subcommittee works with the Administrative Services Coordinators in the Secretary's office to schedule monthly meetings and to contact the Head of School/Principal, who are required to attend the meeting to answer Independent Schools Subcommittee members' questions.	Appropriate AOE staff attend scheduled subcommittee meetings to discuss reports
<p>The Independent Schools Subcommittee presents the school to the full State Board of Education at the next available meeting and shares its renewal recommendation.</p> <p>The full State Board of Education will hear the Subcommittee's renewal recommendation and have a chance to direct questions to the school's administrator.</p> <p>The State Board of Education makes the final decision regarding approval.</p>	AOE's Independent Schools Team, special education liaison, if applicable, the independent school's leadership all must be present and the State Board meeting

## Site Review Checklist

	Yes	No	Comments
<b>Mission Statement 2224.1.1</b>			
Can the administration/staff articulate the school's philosophy? How is the school's mission shared with all staff members?			
Is the description of the school in the application and on its website aligned and accurate? Have there been changes since the renewal application was submitted to the AOE?			
<b>Governance: Rule 2224.1.1, 2226.4</b>			
Is the description of the governance model in the application correct?  What type of oversight/supervision is provided for the head of school?			
<b>Non- Discriminatory Admissions &amp; Enrollment: Rule 2223.2, 2223.2.1, 2226.3</b>			
Are admissions decisions made by a committee? If not, how are admission decisions made?			
What admission/enrollment procedures does your school follow to ensure you meet non-discrimination enrollment requirements under 2223.2?			
Have any students not been admitted within the last 2 years; for what reason?			
Is the description of the enrollment policy provided in the application accurate and aligned with 7-1-24 Rule implementation requirements?			
Is the enrollment policy included on the school's website, in family, student and staff handbooks?			
<b>Attendance/School Census: 16 V.S.A §1126 §166(b)(4), Rule 2226.3</b>			
Is student's daily attendance kept electronically?			
Are student withdrawals after October 1 student census reported to the AOE?			
<b>MCOs (curriculum): Rule 2223.3.3, 16 V.S.A §§166, § 906, §907,</b>			
Is the curriculum age and ability appropriate?			

Can the administration and staff describe how the curriculum is adapted to reflect differences in students' ages and abilities?			
Can the administration and staff describe the methods of instruction and how the instruction is adapted to reflect differences in students' ages and abilities?			
<b>Facilities: Rule 2226.6 (1)(2)(3) 2223.3.1</b>			
Does the school own the building/facility? (If the school does not own the building, please note in the comments section who is responsible for the building/facility's structural maintenance)			
Are ADA classroom(s) and bathroom facilities available?			
Is the heating/cooling systems inspected regularly?  What are the dates of the most recent inspection?			
Was the CO from VT Division of Fire Safety granting occupancy for <u>educational</u> purposes available for review?			
	<b>Yes</b>	<b>No</b>	<b>Comments</b>
<b>Health/Safety: Rule 2223.3.4 16 V.S.A §§§570, 1431, 1481 18 V.S.A §1121</b>			
Does the school have a safety plan and/or prevention/response plan?			
Are staff and students aware of the safety plan?			
Are fire drills practiced monthly?			
Did the school adopt the Agency's model HHB policy?  Was the hazing, harassment, and bullying policy available for review?  Is the HHB model policy published in family, student & staff handbooks?			
Does the school employ a nurse or other health professional or have a plan for medical emergencies?			
Are any staff members trained in CPR or First Aid?			
Is immunization information or signed exemptions on file for all students?			
Does the school have a policy on storage and dispensing of prescription or over-the-counter meds?			

Does the school have a policy on notifying parents/guardians about communicable disease or other medical concerns identified?			
Does the school have a policy for parents/guardians about ill students attending school?			
Have all staff members gone through a fingerprint-supported criminal records check?			
Has the staff received information/training that they are mandated reporters?			
Does the school have a policy on the use of electronics; personal or school purchased?			
Does the school have a concussion action plan (only for schools with athletic programs)?			
<b>Discipline: 16 V.S.A § Rule 4500</b>			
Is the staff knowledgeable about the school's discipline policy?			
Does the school have a process for making students and parents aware of the school's discipline policy?			
Have any students been suspended or expelled within the last two years?			
Does the school use restraint or seclusion?			
If school uses restraint or seclusion is staff trained?			
Does the school have a policy on search and seizure?			
<b>Professional Staff: Rule(s) 2226.8, 2226.8.(1)(2)(3) 2226.8.2(1)(2)(3) 2226.3(1)(2)(3) 2226.11 2226.5, 2226.6, 2226.7 16 V.S.A §§255, 563a 2229.2 and 2229.4 (VT Licensed Special Educator</b>			
Are job descriptions available for review at visit?			
Are staff resumes/vitae available for review?			
Is the staff evaluated on a regular basis?			
	<b>Yes</b>	<b>No</b>	<b>Comments</b>
Is the staff given clear expectations regarding communication with parents or guardians?			
Does the school have clear expectations for professional growth of the staff?			
Does the school provide in-service training or other support to staff for PD?			
Does the school have a policy on staff and student interaction?			
Have any staff members been asked to leave in the past two years?			
Does the school have regularly scheduled staff meetings?			

Is the staff assigned other duties not related to teaching or administrative duties?			
Does the school have a current user's agreement with VCIC regarding criminal background checks?			
Have <b>all</b> school staff members completed required fingerprint supported background check?			
Does the school provide to all staff members, orientation, and reporting requirements regarding abuse?			
Does the school check child/adult abuse registry, as required, when hiring new staff members?			
<b>State Assessments: 16 V.S.A §166 (b)(g) §164(9)</b>			
Do all publicly funded students undertake the state assessment? (If there are no publicly funded students the reviewer should note N/A)			
Who is the school's designated State Assessment Coordinator? Does the school have a back-up coordinator?			
Is the coordinator on file with the AOE's Assessment Team?			
<b>Financial Capacity: Rule 2226.9 16 V.S.A §§ (b), (8)</b>			
Did the school provide evidence of financial capacity deemed acceptable to determine capacity?  Please circle or highlight below the verification method used: a. Audit letter by certified public accountant from present or prior year describing financial capacity b. Audit from the prior fiscal year performed by a certified accounting firm. c. Notarized letter summarizing the financial status within the present or prior fiscal year signed by the board of directors or governing body. Please note if choosing this option additional on-site information must be reviewed to confirm financial capacity. If the reviewer is not satisfied, the reviewer may request the school satisfy option a or b per SBE May 2015 action addressed in the July 9, 2015 memo from Secretary Holcombe. <a href="http://education.vermont.gov/documents/memo-state-board-action-on-independent-school-rules">http://education.vermont.gov/documents/memo-state-board-action-on-independent-school-rules</a>			
<b>School Calendar: Rule 2225.10, 2226.10</b>			
A. Is the calendar provided to the Independent School Team current? B. Is the copy of the current weekly academic schedule current? C. If revised, please provide a copy of new calendar			

## Coordinated Agency Oversight



*Agency of Human Services/Department for Children and Families (DCF) licensing division on residential schools:*

- The Agency of Education reviews the academic program, DCF is responsible for oversight and licensing of residential program. DCF forwards a copy of the school's residential license to the Independent School Team.

*Division of Fire Safety for Certificates of Occupancy:*

- All schools must provide, during application process, current copies of Certificates of Occupancy for all facilities used for educational purposes.

*Vermont Health Department on immunization requirements:*

- During a site review the Independent School Team reviews student health records to confirm compliance with Health Department immunization and/or exemptions.

*Department of Mental Health for collaborative treatment/tuition rate setting for Designated Agency Schools:*

- The Independent School Team and the Department of Mental Health rate setting Team collaborate to review and set education and treatment rates appropriately apportioned to each source of funds requirements, per Agency. These schools are required to conduct time studies every three years to confirm compliance with funding source requirements.

*Accrediting Agencies:*

- *New England Association of Schools and Colleges*- provides accreditation for minimum level of services, professional staff qualifications and curriculum, and financials. Agency forwards to the Independent School Team confirmation of an independent school's accreditation status, determined by the Commission on Independent Schools. Pursuant to State Board Rules the independent school must forward to the Independent School Team a copy of the 5-Year Report or the decennial report as part of the renewal process.
- *Northern New England Conference*- provides accreditation for minimum level of services, professional staff qualifications and curriculum, and financials. This accreditation is an annual process. Schools must provide the last report of the accreditation team as part of the school's renewal process.

## **Rule Application Distinctions for Therapeutic Schools**

<b>Section 2229 Approval to Receive Public Tuition, Special Education Approval.</b>
<b>2229.1 Enrollment: Requirements for Approved Independent Schools, Students, and LEAs.</b>

<ul style="list-style-type: none"> <li>• a) Each approved independent school shall publish, maintain and follow a written enrollment policy which, at minimum, shall provide the following: <ul style="list-style-type: none"> <li>○ 1) That the student or the parent of a student seeking to attend the approved independent school shall voluntarily submit an application;</li> <li>○ 2) Any special considerations or requirements for a student's acceptance for enrollment, none of which shall disadvantage a student based on the student's membership in a protected class, the student's actual or suspected disability, or the student's socioeconomic status;</li> <li>○ 3) The school's process for making enrollment decisions when the number of applicants exceeds capacity;</li> <li>○ 4) That a student shall be accepted for enrollment in a non-discriminatory manner and consistent with the school's written enrollment policy. No student shall be denied acceptance for enrollment if the reason for denial is that the student is disabled as defined in section 504 of the Rehabilitation Act of 1973 as amended or that the student is eligible for special education or undergoing the</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• d) This Rule, 2229.1, shall not apply to a therapeutic independent school.</li> </ul>
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<p>comprehensive evaluation process for special education. No student shall be denied acceptance for enrollment on the basis of race, creed, color, national origin, marital status, sex, sexual orientation, or gender identity or any other classification protected by federal or State law.</p> <ul style="list-style-type: none"> <li>• b) Upon the student's acceptance for enrollment, the student's IEP team shall meet to determine how the student's services shall be provided. The approved independent school and the LEA shall follow the procedures in 2229.4, after which the student shall be enrolled in the approved independent school or, upon the decision of the hearing officer in Rule 2229.4(f), below, the IEP team shall consider an alternative enrollment for the student.</li> <li>• c) When a publicly funded student seeks to attend an approved independent school after the start of the school year, upon the student's acceptance for enrollment, the student shall be provisionally enrolled consistent with the procedures in Rule 2229.4, during which time the LEA of residence shall agree to pay tuition on the student's behalf until the procedures in 2229.4 have been completed and the student is enrolled, or until the hearing officer issues a decision pursuant to subsection Rule 2229.4(f), below.</li> </ul>	
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<p>2229.2 Staffing.</p> <p>An approved independent school is not required to demonstrate that it has the resources to serve every category of special education as defined under Board rules in order to be approved or retain its approval to receive public funding for general tuition. <b>Therapeutic independent schools shall have the capacity to serve the needs of students they are designed to serve.</b> The Secretary shall establish minimum standards of services for students receiving special education services in independent schools in Vermont.</p>	<p>Therapeutic independent schools shall have the capacity to serve the needs of students they are designed to serve.</p>
<p>2229.3 Assurances.</p> <p>The approved independent school shall demonstrate that it has the ability to serve all students with disabilities by:</p> <ul style="list-style-type: none"> <li>• (a) Demonstrating an understanding of special education requirements, including: <ul style="list-style-type: none"> <li>○ (1) Provision of a free and appropriate public education in accordance with federal and State law.</li> <li>○ (2) Provision of education in the least restrictive environment in accordance with federal and State law.</li> <li>○ (3) Characteristics and educational needs associated with any of the categories of disability or suspected disability under federal and State law.</li> <li>○ (4) Procedural safeguards and parental rights, including discipline procedures, specified in federal and State law.</li> </ul> </li> </ul>	<p>These rules are the same.</p>

<ul style="list-style-type: none"> <li>• (b) Committing to implementing the IEP of an enrolled student with special education needs, providing the required services, and appropriately documenting the services and the student's progress.</li> <li>• (c) Employing or contracting with staff who have the required licensure to provide special education services.</li> <li>• (d) Agreeing to communicate with the responsible LEA concerning: <ul style="list-style-type: none"> <li>◦ (1) Development of, and any changes to, the IEP.</li> <li>◦ (2) Services provided under the IEP and recommendations for a change in the services provided.</li> <li>◦ (3) The student's progress.</li> <li>◦ (4) Maintenance of the student's enrollment in the independent school.</li> <li>◦ (5) Identification of students with suspected disabilities.</li> </ul> </li> <li>• (e) Committing to participate in dispute resolution as provided under federal and State law.</li> </ul>	
2229.4 Procedure for Ensuring the Provision of Special Education Services to Publicly Funded Students in Approved Independent Schools.	
<ul style="list-style-type: none"> <li>• a) Upon the acceptance for enrollment of a student with an individualized education program in an approved independent school, the LEA of the student's residence shall convene an IEP or 504 team meeting within 30 days. When practical, the meeting shall be held prior to the start of the academic year in which the student</li> </ul>	h. This Rule, 2229.4, shall not apply to a therapeutic independent school.

<p>is enrolled. The approved independent school shall designate personnel to participate in the IEP or 504 meeting. At the meeting, the team, which includes the parent, and the student where appropriate, shall determine how to ensure the provision of a free and appropriate public education in accordance with the student's IEP.</p> <ul style="list-style-type: none"> <li>• b) The LEA and the approved independent school together with the student's IEP team shall work collaboratively to ensure the student's services are provided in accordance with State and federal law. Services shall be provided in a timely manner, beginning with the first day of the school year when possible. It is the intent of the State Board that the LEA and the approved independent school will identify solutions that minimize the loss of instructional hours to the student. The Agency shall provide technical assistance to the LEA and the approved independent school upon request.</li> <li>• c) For placement purposes under the IDEA, the IEP team shall ensure the IEP process reflects the student's choice of enrollment in the approved independent school, notwithstanding SBE Rule 2354.3(a)(2). In this context, "placement" refers not to the specific site of the educational placement, but to the provision of special education and related services.</li> <li>• d) The student's special education and related services shall be</li> </ul>	
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<p>provided in the least restrictive environment.</p> <ul style="list-style-type: none"> <li>• e. To ensure the provision of services in the student's IEP, the approved independent school and the LEA may use any or all of the methods listed below to ensure the provision of those services, including: <ul style="list-style-type: none"> <li>○ 1. The approved independent school recruiting and hiring special education or other professional or paraprofessional staff;</li> <li>○ 2. The approved independent school contracts directly with service providers to provide the services at the independent school if the services are not otherwise available at the independent school.</li> <li>○ 3. The approved independent school contracting with the LEA to provide the services.</li> <li>○ 4. The LEA providing the services at a public school operated by the LEA or another public school.</li> </ul> </li> <li>• f. If there is a dispute between the LEA and the approved independent school over whether the student's special education services can be provided in accordance with the student's IEP at the independent school or otherwise, the LEA shall initiate a hearing before an independent hearing officer, the costs of which shall be borne equally between the LEA and the independent school, within 30 days of the impasse.</li> <li>• g. If the hearing officer determines the approved independent school is</li> </ul>	
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<p>unable to provide the required IEP services due to an inability to retain qualified staff, the LEA shall immediately convene an IEP meeting to consider alternatives.</p> <ul style="list-style-type: none"><li>o 1. The approved independent school shall not be subject to any disciplinary action or revocation of its approval by the Board under Rule 2223.8 due to its failure to enroll or continue to enroll the student.</li></ul>	
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