

AOE Suggestions for Further Amendment to Draft Rule 2223

After these draft rules were pre-filed with ICAR, an additional rule development was identified by members of the State Board Subcommittee on Rule Series 2200 and Agency of Education staff. The Agency believes that the proposed amendment is noncontroversial. In addition, the following proposal has already been reviewed in at least one publicly warned meeting. The Agency is presenting the language that appears below during a public hearing on draft rule 2200 so that the public can receive notice of this proposal and the language can be vetted through the rest of the APA rulemaking process. Anyone with questions about this proposal can contact Donna Russo-Savage, Staff Attorney, at Donna.RussoSavage@vermont.gov.

Background

Vermont law requires the State Board of Education to approve independent schools offering elementary or secondary education if the Board finds that the school “provides a minimum course of study pursuant to section 906 of [Title 16] and that [the school] substantially complies with the Board's rules for approved independent schools.” State Board Rule 2223 permits the Board to grant approval to an independent school that is accredited by an agency recognized for those purposes by the State Board and listed in Rule 7320, without the need for additional evaluation or process.

In March 2021, the Executive Director of the Association of Independent Schools in New England (“AISNE”) asked the State Board to include AISNE on the Rule 7320 list of currently recognized accrediting agencies. AISNE representatives attended a meeting of the Rule 2200 Subcommittee where they presented an overview of the organization and responded to questions.

The Subcommittee determined that adding AISNE to the list of recognized accrediting agencies would assist smaller independent schools, particularly independent elementary schools, to achieve “approved” status under current State Board rules. The AISNE accreditation process is of similar rigor to that used by the New England Association of Schools and Colleges (“NEASC”), but it is more specifically geared to elementary schools and is a more affordable option for smaller independent schools. By accepting AISNE accreditation, the State Board would provide an additional pathway by which an independent K-8 school could demonstrate compliance with current approval requirements.

The Rule 2200 Subcommittee had further discussion of the proposed recognition of AISNE at the Subcommittee’s meeting on August 2, 2021. Among other issues, the Subcommittee considered the need to update other names currently on the 7320 list, the intent either to amend the Rule 2200 Series to include substantive requirements and a process by which agencies would be recognized or to incorporate the 7320 list into the Rule 2200 Series, and the desire not to delay the recognition of AISNE. The Executive Director of the VT Independent Schools Association was present and indicated the Association's support for recognizing AISNE as soon as possible.

The Subcommittee asked the Agency to prepare draft documents initiating rulemaking to add AISNE to the 7320 list of currently recognized accrediting agencies. Subsequently, the State Board's Chair and Vice-Chair suggested a different approach to accomplish the multiple inter-related goals discussed at the Subcommittee's August 2 meeting in a simpler and more efficient manner. The new approach would also repeal all other rules in the Rule 7000 Series because they provide no independent content, but rather cite statutes and other rules that address the topic.

The newly-proposed, multi-step process is as follows:

1. During the public comment period for the Rule 2200 Series in August, the Agency will:
 - a. Propose to amend Rule 2223 to explicitly identify AISNE as a recognized accrediting agency.
 - b. Propose to amend the sentence in Rule 2223 that cross-references the list of currently recognized agencies in Rule 7320 to indicate the Board's intent to repeal Rule 7320 effective July 1, 2024.
2. For the State Board's consideration in September, the Agency will prepare drafts of all documents necessary to initiate rulemaking to:
 - a. Repeal Rule 7320, effective July 1, 2024 (or on a different date subsequently set out in adopted rule or statute).
 - b. Repeal all other rules in the 7000 Series, effective 15 days after the amendment's adoption per 3 V.S.A. § 845.
3. During the second phase of Rule 2200 Series amendments, which is anticipated to occur in 2022, the State Board will propose amending Rule 2223 to:
 - a. Remove the cross-reference to Rule 7320.
 - b. Include in the 2000 Series, either (i) substantive requirements and a process by which the State Board would recognize accrediting agencies or (ii) a list of State Board-recognized accrediting agencies.

Proposed Language that the Agency Offers as Public Comment to Rule 2223

In furtherance of item #1 above, the Agency offers the following revised language:

Section 2223 Reciprocity.

Approval may be granted without committee evaluation and the approval process in the case of any school accredited by a state or regional agency recognized by the State Board for accrediting purposes. ~~Such~~ In addition to the accrediting agencies are listed in Rule 7320 of the Board Manual of Rules and Practices, which the Board shall continue to recognize until July 1, 2024, the State Board recognizes the Association of Independent Schools in New England. Any accreditation from a recognized accrediting agency that is valid for more than five years must be supplemented with an interim report from the accrediting agency which should be submitted to the Department of Education by the accrediting agency or the school during the last year of its five-year approval. This interim report must provide such information as is necessary to assure the State Board that the school is meeting the approval standards. If such proof of compliance with approval standards cannot be shown the school must undergo the approval process.