



Vermont  
Superintendents  
Association



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THE UNION OF VERMONT EDUCATORS

TO: State Board of Education

FROM: Vermont School Boards Association, Vermont Superintendents Association,  
Vermont Principals' Association and Vermont-NEA

RE: Public Comments - Rule Series 2200

DATE: December 4, 2023

The Education Equity Alliance, which is comprised of the Vermont School Boards Association, Vermont Superintendents Association, Vermont Principals' Association and Vermont- NEA, believes that all students who receive a publicly funded education should have the benefit of an education program that is inclusive, anti-racist, anti-discriminatory, equitable, and culturally responsive, as intended by the legislature.

Unfortunately, the Vermont State Board of Education's proposed changes to the Rule 2200 series fail to ensure that students at publicly funded private schools receive the **same** inclusive, anti-racist, anti-discriminatory, equitable, and culturally responsive education as students in public schools.

The same rules should apply to all schools that provide a publicly funded education to Vermont students. The State Board does not apply the same rules - it requires public schools to follow the Rule 2000 Series (Education Quality Standards) and private schools, including those that receive public tuition, to follow the Rule 2200 Series (Independent School Approval Program). The Education Equity Alliance does not support two separate systems for Vermont's publicly funded students, one which provides comprehensive, strong quality standards for public schools and another which contains less comprehensive and weaker quality standards for private schools that receive public tuition.



EDUCATION EQUITY  
ALLIANCE

1. The State Board asserts that it is applying the same requirements in the two sets of rules but that is not factually correct. This memorandum outlines major differences we have identified between the Rule 2000 Series and the Rule 2200 Series and requests that those differences be corrected.
2. The State Board's proposed changes to the Rule 2200 Series differ from the Rule 2000 series in the following ways:
  - a. Definitions of the same words differ in the two sets of rules - they should be the same:
    - i. The word "Discrimination" is defined differently in 2200 and 2000, resulting in private schools being held to a less stringent standard
    - ii. The term "Restorative Practices" is defined differently in 2200 and 2000
  - b. Definitions of the following words are included in the Rule 2000 series and omitted from the Rule 2200 series, pointing to areas that are not covered by the Rule 2200 series:
    - i. "Academic record"
    - ii. "Career and technical education"
    - iii. "Education support team"
    - iv. "Educational technology"
    - v. "Educator mentoring"
    - vi. "Equity or equitable"
    - vii. "Evidence-based"
    - viii. "Needs-based professional learning"
    - ix. "Personalized learning plan"
    - x. "Proficiency based learning"
    - xi. "Proficiency based graduation requirements"
    - xii. "Racial discrimination"
    - xiii. "Technology integration"
    - xiv. "Transcript"
    - xv. "Transferable skills"
    - xvi. "Universally designed instruction"
  - c. Complete sections of the Rule 2000 Series are missing from the Rule 2200 Series
    - i. Professional Learning for public schools is covered in Rule 2121.3 and is missing entirely from the 2200 Series for private schools. This means there is no requirement for private schools to provide ongoing professional learning, resources and supports for professional staff to:

1. create and strengthen an anti-racist, inclusive and culturally and linguistically responsive school experience for all students and
  2. cultivate the knowledge, skills and practices required to identify and remediate prohibited discrimination
- ii. Access to Instructional Materials in public schools is covered in Rule 2122.2 and is missing entirely from the Rule 2200 Series for private schools. This means that private schools are not required to:
1. Develop and maintain a collection of accessible print, multi-media alternate format (e.g. high quality audio files, electronic braille, and other forms of E-texts) resources
  2. Ensure that curriculum is supported by accessible digital, multi-media, and alternate format resources
  3. Ensure that students, teachers, administrators and paraprofessionals have access to a an organized collection of digital, multi-media, alternate format and print materials sufficient and appropriate to support all students in meeting or exceeding the current state and national standards at no cost to the student
- iii. Local Comprehensive Assessment Systems for public schools (including specifics related to English Language Learners) are covered in Rule 2123 and are missing entirely from the Rule 2200 Series for private schools. This means that private schools are not required to implement a local comprehensive assessment system that establishes annual protocols and timelines for assessing the progress and needs of English Language Learners beginning at the point of enrollment and continuing at designate intervals during the year
- iv. Reporting of results for public schools is covered in Rule 2124 and is missing entirely from the Rule 2200 Series for private schools
1. reporting requirements are robust in Rule 2124 for public schools and offer transparency for areas related to equity, including:
    - a. Academic performance
    - b. Graduation, dropout, retention and attendance rates
    - c. Enrollment in and completion of flexible pathways and career and technical education
    - d. Social and emotional wellbeing

- e. Discipline, including suspensions and detention actions
  - f. Incidents of hazing, harassment and bullying
  - g. Referral to and participation in programs for students with disabilities, including Section 504 and special education
  - h. Enrollment in and completion of flexible pathways, career training, advanced placement courses and extracurricular activities
2. Rule 2124 requires public schools to report on disaggregated data at least by school and according to student subgroups, including students identified:
    - a. As economically disadvantaged
    - b. From major racial and ethnic groups
    - c. As having a disability (includes reporting on students with Section 504 plans and students with individualized education programs, separately and in total)
    - d. With limited English proficiency
    - e. As students who are publicly funded to attend an approved independent school
3. Additional Areas of Concern in Proposed Changes to Rule 2200 Series
    - a. Rule 2223.4 includes a vague and broad annual compliance assurance that “each approved school shall attest to continued compliance with applicable requirements of this rule and federal and state law on an annual basis.”
      - i. the assurance language in Rule 2223.4 should emphasize nondiscrimination - it is not mentioned
      - ii. rule 2223.4 is weak on accountability
        1. If a school fails to submit a compliance form, the rules require a lengthy investigation and process that gives the State Board discretion to “revoke, suspend or impose conditions on approval” of a private school only if the Board determines that the school “intentionally violated” subsection 2223.4. Is “intentional violation” the correct standard to be using?
        2. Rules 2226.2/2226.3 (Due Process and Investigations) do not provide for notification of LEAs when private schools are under investigation or allow LEAs to withhold public tuition during the investigation.

3. LEAs should be notified of any investigation of a private school receiving taxpayer funds and have clear authority to protect public tax dollars, up to and including withholding tuition payments pending resolution of the investigation.
- b. Proposed Rule 2224.2 allows an abbreviated approval process for accredited schools.
    - i. Under rule 2224.2.1, accredited schools do not need to attest to compliance with 2223.3.3 (Instruction, Faculty and Special Services) or 2229 (Approval to Receive Public Tuition; Special Education Approval) in their application and review process.
    - ii. Without such attestation, it is unclear how compliance with these critical equity requirements will be measured and enforced. Please consider strengthening this section.
  - c. Proposed Rule 2223.5(f) requires private schools to provide data related to assessments of publicly funded students to the Secretary and encourages them to provide the data to local education agencies
    - i. Private schools should be required to provide assessment data to local education agencies as well as the Secretary
  - d. Proposed Rule 2223.5 states that information provided by a school under the Rule 2200 series that is not already in the public domain shall be exempt from public inspection and copying under the Public Records Act and shall be kept confidential
    - i. Information provided by schools under the Rule 2200 series should not be exempt from the Public Records Act
    - ii. Making Information provided by schools under the Rule 2200 series “confidential” is non-transparent. When private schools are receiving public funds, the public should have the right to access information provided by those schools under the Rule 2200 series.
  - e. Proposed Rule 2224.5 allows extension of approval of a school completing a timely application for further approval until the State Board acts on further approval. This leaves the timeline wide open and the result is extensions that last for years. This provision should be eliminated or time constraints should be added.
  - f. Proposed Rule 2224.7 should include a reasonable deadline for the Secretary to process applications. Currently, there are applications that are taking over two years to process.
  - g. The investigation process in proposed Rule 2226.2.2 is prolonged and drawn out.
    - i. The process should be shortened by allowing a complainant to file a complaint directly with the State Board. Additionally, provisions

should be added requiring notification of LEAs when private schools are under investigation and allowing LEAs to withhold public tuition pending resolution of the investigation.

- ii. Rule 2226.2.2(g) should be modified to require the Secretary to maintain a public register of all complaints received (rather than just those that result in probation or a formal investigation)

Thank you for the opportunity to provide written comments on the State Board's Rule 2200 series.