

MEMORANDUM

TO: EQS Rule Committee Members
FROM: Jennifer Samuelson, Chair, Rule Series 2200 Committee
State Board of Education
RE: Alignment of Select Language in Both Sets of Proposed Rules
DATE: October 12, 2023

Fellow State Board of Education Members,

I am submitting this memo as part of the public record to again reiterate the State Board of Education's intention that language used to implement the principles and goals of Act 1 will be substantively the same in the Education Quality Standards (Rule 2000 Series) ("EQS Rules") and the Independent School Program Approval Rules (Rule 2200 Series) ("2200 Series Rules") when both sets of rules are finalized and adopted by the Board early next year. As you will recall, we have stated this intention repeatedly during Committee and full Board meetings since this process began.

On Monday, October 9, 2023, the Proposed 2200 Series Rules were approved by the Interagency Committee on Administrative Rules (ICAR). They are now being filed with the Secretary of State, which will begin the public comment period through December 5, 2023. *The 2200 Series Rules, as unanimously approved by the Board at its special meeting on August 18, 2023, include updated language in two sections that differs from the language that currently appears in the parallel proposed updates to the EQS Rules, as filed with ICAR and the Secretary of State.* When the Board approved the revised language in the 2200 Series Rules on August 18, 2023, it was clear that its commitment to adopting *the same substantive language in both sets of rules* for Act 1 related amendments had not changed and that it intended to refer to the revised language in the 2200 Series Rules when it considered final updates to the EQS Rules.

Since the public comment periods for these sets of rules will not overlap as the Board had hoped, I feel it is important to expressly point out the exact language revisions that were unanimously approved by the Board in the 2200 Series Rules. In keeping with the Board's stated goal to promote consistency between the rules, the counterparts identified below will be revisited by the Board before it proposes the final EQS Rules.

Any comments received on these sections or topics during *either or both rulemaking processes* that relate to Act 1 related changes will be considered by the Board in making its final decision on language that will apply to both sets of rules.

Differences in Language Related to Discrimination

As Proposed in EQS and As Proposed in Rule 2200 (recently approved by ICAR)

Instance #1: Statement of Purpose

<p align="center">PROPOSED EQS Rule Section 2110 Statement of Purpose</p>	<p align="center">PROPOSED Independent School Program Approval Rule Section 2220 Statement of Purpose</p>
<p align="center">***</p> <p>In addition to the non-discriminatory protections in Section 2113, these rules prohibit discrimination against any student pursuing an education or participating in the general life or activities of a school as a result of or based upon, ethnicity, caste, language and linguistic diversity, socio-economic status, religion, housing status, and non-citizenship or immigration status.</p> <p>These rules further require all schools to strive for a culturally responsive pedagogy that critically examines and imparts a comprehensive historical and socially conscious understanding of:</p>	<p align="center">***</p> <p>The Board believes that any distinction, exclusion, classification, restriction or preference based on any ground, such as race, ethnicity, skin color, sex, sexual orientation, gender identification, language, religion, political or other opinion, disability, national, social or geographic origin, citizenship or immigration status, income or property, birth or other status, which has the purpose or effect of denying or impairing the recognition, enjoyment, or exercise of fundamental rights and freedoms in the political, economic, social, cultural, civil or any other field should be carefully considered and rejected if it results in unlawful discrimination or interferes with the delivery of effective, available, and equitable educational opportunities. The Board recognizes that discrimination is practiced by individuals and groups, and it is expressed systemically through the structures, laws, practices, and policies of public and private institutions, employers, and organizations.</p> <p>In addition to the non-discriminatory protections in Subsection 2223.2 (Nondiscrimination Requirements for Approved Schools), discrimination against any student pursuing an education or participating in the general life or activities of a school as a result of or based upon, ethnicity, caste, language and linguistic diversity, socio-economic status, religion, housing status, and non-citizenship or immigration status, does not embody the intent of the Board to promote welcoming, inclusive, bias-free environments for learning in Vermont’s schools.</p> <p>These rules further require all schools to strive for a culturally responsive pedagogy that critically examines and imparts a comprehensive historical and socially conscious understanding of:</p>

<p>(a) the causes and effects of bias and discrimination as a result of, or based upon, the reasons set forth in Section 2113 of this Manual and in this Statement of Purpose;</p> <p>(b) why all persons should have equitable access to social and economic opportunity;</p> <p>(c) why persons and institutions must identify and prevent individual, group, and systemic racism, discrimination, and all forms of unfair treatment; and</p> <p>(d) the positive and multi-faceted contributions of different social, cultural, racial, linguistic ethnic and indigenous groups to the historical and ongoing project of building and strengthening democracy in the United States and globally.</p> <p>Nothing herein shall be construed to entitle any student to educational programs or services identical to those received by other students in the same or different Supervisory Union/Supervisory District (SU/SD) or school. These rules are in addition to and, unless otherwise specifically stated, do not supersede other rules adopted by the Agency of Education or contained in the Vermont State Board of Education Manual of Rules and Practices. This manual adopts a definition of Discrimination that is broader than its legal definition. Nothing herein shall create a private right of action.</p>	<p>(a) the causes and effects of bias and discrimination as a result of, or based upon, the reasons set forth in Subsection 2223.2 of this Manual and in this Statement of Purpose;</p> <p>(b) why all persons should have equitable access to social and economic opportunity;</p> <p>(c) why persons and institutions must identify and prevent individual, group, and systemic racism, discrimination, and other forms of unfair treatment; and</p> <p>(d) the positive and multi-faceted contributions of different social, cultural, racial, linguistic ethnic and indigenous groups to the historical and ongoing project of building and strengthening democracy in the United States and globally.</p> <p>Nothing herein shall be construed to entitle any student to educational programs or services identical to those received by other students in the same or different schools. These rules are in addition to and, unless otherwise specifically stated, do not supersede other rules adopted by the Agency of Education or contained in the Vermont State Board of Education Manual of Rules and Practice. Nothing herein shall create a private right of action.</p>
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Instance #2: Definitions

<p>PROPOSED EQS Rule Section 2114 Definitions</p>	<p>PROPOSED Independent School Program Approval Rule Section 2222 Definitions</p>
<p style="text-align: center;">***</p> <p>14. “Discrimination” means any distinction, exclusion, classification, restriction or preference based on any ground, such as race, ethnicity, skin color, sex, sexual orientation, gender identification, language, religion, political or other opinion, disability, national, social or geographic origin, citizenship or immigration status, income or property, birth or other status, which has the purpose or effect of denying or impairing the recognition, enjoyment or exercise of fundamental rights and freedoms in the political, economic, social, cultural, civil or any other field. Discrimination is practiced by individuals and groups, and it is expressed systemically through the structures, laws, practices, and policies of public and private institutions, employers, and organizations.</p> <p style="text-align: center;">***</p>	<p style="text-align: center;">***</p> <p>“Discrimination” is intended to describe any exclusion, restriction, or preference based on any protected class consistent with state and federal law that has the purpose or effect of denying or impairing the recognition, enjoyment or exercise of an individual’s fundamental rights. Discrimination is practiced by individuals and groups, and it is expressed systemically through the structures, laws, practices, and policies of public and private institutions, employers, and organizations.</p> <p style="text-align: center;">***</p>