



Vermont Independent  
Schools Association

June 24, 2022

To: SBE Education Quality Standards Committee  
From: Mill Moore, Executive Director  
Re: EQS Rulemaking; EQS Definitions

Revisions to the State Board of Education 2000 Series rules—the Education Quality Standards (EQS)—have been proposed by the Ethnic & Social Equity Standards Advisory Working Group (the Act 1 Group), a legislatively created group directed to “review standards for student performance adopted by the State Board of Education under 16 V.S.A. § 164 (9).”

As a statutory member of the Ethnic & Social Equity Standards Advisory Working Group VISA has participated in the group’s work and supports the group’s mandate.

The Education Quality Standards Committee has invited VISA and other stakeholders to comment on EQS Section 2114, the Definitions section of the Standards, prior to its June 30 meeting.

***Ahead of any further consideration, VISA questions whether the State Board of Education has statutory authority to apply EQS to any approved independent school without the school’s consent.***

The Act 1 Group proposes the EQS be made applicable to approved independent schools as well as public schools. Wherever the phrase “public schools” appears in the EQS, it would be replaced with the phrase “public and approved independent schools.”

In the Statement of Purpose, the first sentence is proposed to read: “The purpose of these rules is to ensure that all students in Vermont public schools and approved independent schools are afforded educational opportunities ...”

The Board’s authority to adopt and apply EQS to public schools is in 16 V.S.A. § 165 (a) (3). This statute clearly and specifically applies only to public schools and to approved independent schools that *voluntarily choose* to “participate in the education quality standards process ...” as provided in § 165 (f).

The Board is granted *distinctly separate authority* to adopt and apply rules to independent schools by in 16 V.S.A. § 166 (b).

Separate statutes for public and for independent schools have been on the books for many decades, clearly signaling legislative intent that separate regulatory and oversight provisions are necessary because of essential differences in organization, mission and curricula between the two school groups.

Though VISA made the Act 1 Group aware of the different regulatory approaches to public and independent schools, the group chose not to acknowledge those differences. The group chose instead to recommend mapping public school rules onto approved independent schools without consideration of the consequences. VISA was the only Act 1 Group member to dissent from that recommendation.

**The questionable lack of SBE statutory authority to require EQS adherence by approved independent schools is a threshold question which should be addressed ahead of other considerations.**

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**§ 165. Education quality standards; equal educational opportunities; independent school meeting education quality standards**

(a) In order to carry out Vermont's policy that all Vermont children will be afforded educational opportunities that are substantially equal in quality, each Vermont public school, including each career technical center, shall meet the following education quality standards:

\* \* \*

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

\* \* \*

(f) In order to be designated an independent school meeting education quality standards, an independent school shall participate in the education quality standards process of subsection (b) of this section.

**§ 166. Approved and recognized independent schools**

**(b) Approved independent schools.** On application, the State Board shall approve an independent school that offers elementary or secondary education if it finds, after opportunity for hearing, that the school provides a minimum course of study pursuant to section 906 of this title and that it substantially complies with the Board's rules for approved independent schools. Except as provided in subdivision (6) of this subsection, the Board's rules must at minimum require that the school have the resources required to meet its stated objectives, including financial capacity, faculty who are qualified by training and experience in the areas in which they are assigned, and physical facilities and special services that are in accordance with any State or federal law or regulation. Approval may be granted without State Board evaluation in the case of any school accredited by a private, State, or regional agency recognized by the State Board for accrediting purposes.