

Briefing Document

TO: State Board of Education
FROM: Independent School Team
SUBJECT: Additional information to support the Independent School Team's request to conduct virtual site visits
DATE: April 15, 2021

Per the State Board of Education (SBE) Rule 2222.1, the Agency of Education (AOE) Independent School Team (IS Team) conducts onsite reviews as part of the application review process for an entity seeking SBE approval to operate or continue to operate as an approved independent school. An entity can seek approval to be an approved Independent School (IS) for general education only or general education and special education. These reviews typically occur throughout the winter and spring. Independent schools may submit applications for initial approval, renewal of approval, and/or amendments to a school's current approval.

On March 13, 2020, because of COVID-19, AOE staff began teleworking. At this time, the majority of independent schools also transitioned to hybrid learning modalities. As a result, the IS Team has been unable to conduct the onsite visits which has resulted in a significant backlog of applications. The IS Team has four main areas of concern around the backlog:

1. SBE Rule 2222.5 (Extension) allows an IS to continue to operate under its most recent SBE approval provided that the IS has submitted its application for renewal to the AOE in a timely manner. This rule is important as it allows an IS to continue to operate and avoid being penalized during this time when a review has not been possible. However, a lack of any review decreases the AOE's and SBE's ability to ensure compliance with Vermont Statute and the SBE Rules.
2. An IS may request an amendment to its current SBE approval. The amendment may include a request to serve a different age student or disability category (initial or additional). In these situations, amendments are often requested based on the needs of a prospective student(s). Without the ability to seek these amendment approvals, an IS may not be able to accept the student(s). Full approval of the amendment request results in a stronger understanding of the IS's ability to serve student(s). Per SBE Rule 2228.2 (Placement Prohibition), the Secretary of Education may issue a waiver in certain situations involving special education disability categories. These waiver requests are

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reviewed on a case-by-case basis and are approved only for a specific school year. While necessary in some situations, relying on the waiver in all cases can create an instability to a student’s continuity of programming. The waiver is specific to special education, must be submitted by an LEA (not an IS), and does not apply to age.

3. AOE staff are currently restricted from completing onsite reviews due to COVID. There is neither a date certain when this restriction will be lifted nor when an IS may be open to receiving visits from outside individuals. To allow for the uncertainty of these COVID restrictions, the IS Team is requesting the ability to conduct IS application reviews via a virtual desk review through June 30, 2023.
4. State statute 16 VSA §166(b)(2) and SBE Rule 2227 limits IS approval to a period not to exceed a maximum of five (5) years. A recent audit interpreted this to mean that in no case could an IS be allowed to operate past five (5) years including the extension allowed for in SBE Rule 2222.5 (see number 1 above). Some of the IS applications included in the backlog have exceeded five (5) years of operation since last approval.

Below is a list of applications that the IS Team has either already received for 2020 and 2021 or is scheduled to receive in 2022 and 2023. Please note that the applications anticipated for 2022 and 2023 only represent renewal applications that we are aware of at this time. We would expect there to be applications for initial IS approval as well as amendments that would be in addition to the known renewals.

Application Type	2020	2021	2022	2023
Renewal - General Education Only (not accredited)	3	3	12	
Renewal – General Education and Special Education (not accredited)	5	15	5	2
Renewal – General Education NEASC Accredited			1	
Renewal – General Education NEASC Accredited with Special Education	1	1	4	4
Initial – General Education Only				
Initial – General Education and Special Education	1	2		
Amendment – General Education seeking additional Special Education Categories	3	2		
Amendment – NEASC Accredited seeking initial Special Education	1			
Amendment – NEASC Accredited seeking additional Special Education	1			
Total Applications received or expected:	15	23	22	6

In order to reduce the impacts of this delay, the IS Team’s review plan will prioritize the applications per the following criteria:

1. Applications from approved IS seeking amendment(s) to its current SBE approval,
2. Applications from entities seeking initial approved IS status,

3. Applications for renewal from NEASC accredited schools seeking General Education only,
4. Applications for renewal from NEASC accredited schools seeking General Education and Special Education, and
5. Applications for renewal

During COVID-19 remote working the AOE has invested in the technology and staff training required to conduct all aspects of our work using remote options. The IS Team's plan for the virtual desk review is:

1. Staff will reach out to each IS/entity to determine if there have been any changes since its application was submitted.
2. After receiving updated documentation and information, a date and time will be established for the virtual desk review.
3. A telecommunication platform will be utilized to enable face-to-face conversations and facilitate visual confirmation of documents during the review. This will require the school staff's assistance. Documents that do not contain protected information may be requested by email.
4. The documentation we review will be the same as the documentation the IS Team reviews when completing an onsite review. The IS Team intends to conduct these virtual desk visits by methods as close as possible to a standard onsite review.

The IS Team appreciates the State Board's consideration of this request and will be available to answer additional questions.