

Vermont State Board of Education

Annual Report

December 2022

Among its many responsibilities set forth in 16 V.S.A. §164, the Vermont State Board of Education (the Board) has a duty to prepare and submit an annual report to the Governor and the General Assembly. Although some of the particular content of the report seems to be a remnant from the days when the Board oversaw and directed the Agency of Education (the Agency) and thus appears to be more appropriately directed to the Agency, *see* 16 V.S.A. §164(17), (21), the Board nevertheless felt that it was important to report on work done during the past year and to highlight areas that will be significant in the upcoming year.

Work Accomplished in 2022:

- In accordance with Act 173 of 2018, the Board updated its 2200 Rule Series that governs the approval of independent schools. Many of the rules in the Rule Series were updated in response to Act 173, particularly Rule 2229, which now provides that, beginning July 1, 2023, any approved independent school that wishes to receive public tuition dollars must comply with the special education requirements set forth therein. In addition, the Board took advantage of the fact that the Rule Series was open and updated language in critical areas that were not related to Act 173, including:

- Clearly requiring that an approved independent school comply with both the Vermont Public Accommodations Act, Title 9 Vermont Statutes Annotated, Chapter 139, and the Vermont Fair Employment Practices Act, Title 21 Vermont Statutes Annotated, Chapter 5, Subchapter 6 (Rule 2226);
- Mandating that any school that operates a boarding or residential program must either be accredited by a Board-recognized state or regional agency or be licensed by the Department of Children and Families as a condition of its approval (Rule 2227).

Updates to the Rule Series were the product of countless hours by the subcommittee, in consultation with various stakeholder groups, and subsequently by the full Board, and the rules were unanimously approved by the Legislative Committee on Administrative Rules (LCAR) in March. Some updates to the Rule Series became effective upon adoption (Rules 2223, 2224, 2226, and 2227), and the remainder will become effective on July 1, 2023.

- With the benefit of timely action on the part of the General Assembly to update Title 16 Vermont Statutes Annotated, Chapter 11, the Board was able to respond to several requests for withdrawals from a Supervisory Union/Supervisory District with the following results:
 - The Board was given authority to grant Stowe's request to withdraw from its State Board-created Unified Union School District;
 - After the Board issued a negative advisory opinion regarding the Ripton School District's preparedness to assume full responsibility for the education of its K-12 students, the town voted to avail itself of the simplified process to rejoin its Supervisory District;
 - In the face of these new statutory requirements, Lincoln School District voted to withdraw from its Supervisory District before the law became effective, with the result that its withdrawal proceeded under the former version of 16 V.S.A. §724. Lincoln must therefore be

fully operational by July 1, 2023. Further, over the course of multiple meetings and several months, neither the Board, the Agency, nor Lincoln were able to identify any increased efficiencies or greater convenience and economy that would occur if Lincoln were assigned to a different Supervisory Union. The Board thus used its power under 16 V.S.A. §261(c) to designate Lincoln as its own Supervisory District.

Current Work

- ◆ The Board has created an Independent School Approval Review Committee that is working with the Agency in an effort to review dozens of independent schools that are seeking approval or reapproval. There are many steps involved in this process, which helps to ensure that each independent school that is approved satisfies statutory standards as well as the Board's rules. Unfortunately, much of this work was necessarily put on hold during the pandemic, with the result that there are many schools in the queue for approval/reapproval. The Board and the Agency are working to make this process as efficient as possible and hope to clear much of the backlog in 2023.
- ◆ The Board has also created an Education Quality Standards (EQS) Rule Update Committee to analyze and revise proposed updates to the EQS rules, located in the Board's 2000 Rule Series, that were prepared by the Working Group established by Act 1 of 2019. The Board will retain outside counsel to perform general counsel services with regard the amendments to the Rule Series, including assisting the Board through each step of the Administrative Procedures Act (APA) rule making process. The Board will also coordinate its timelines with the Agency's work to update the District Quality Standards and to implement Quality Assurance Standards in accordance with the mandates of Act 127 of 2022.
- ◆ The Board regularly hosts presentations at its monthly meetings pertaining to Diversity, Equity, and Inclusion. These presentations showcase work done throughout the State to ensure that schools are places where everyone feels valued and respected.

Future Goals

At present, the Board can identify two areas of need that, if resolved, will allow our work to flow more efficiently in the future. First, the Board hopes that the division of roles and responsibilities between the Board and the Agency will be finalized during the upcoming legislative session. Many of the Board's rules are outdated and should be revised, but it is difficult to engage in this work without a clear understanding of whether or not a rule that is currently under the Board's authority will remain so after a final determination of roles and responsibilities has been made. Second, and related to the first, the Board feels that its work would benefit from the addition of dedicated legal assistance. While the Board is indebted to the legal services and general support provided to it by the Agency, the current structure can give rise to issues, including needing to retain outside counsel. Indeed, due to an Agency conflict, the Board is currently retaining outside counsel to help shepherd updates to the EQS rules through the APA rule making process. The Board is also currently responding to a challenge brought under the Vermont Public Records Act seeking communications between Board members and Agency attorneys. Further, the Board is frequently tasked with resolving increasingly complex matters in which school districts and towns are represented by private counsel, including mergers of and withdrawals from school districts under Act 176 of 2022. The Board's work often involves issues of statutory construction and interpretation, as well as drafting

language in furtherance of its work, and legal assistance is crucial to the Board's success. In consultation with the Agency, the Board plans to come before the General Assembly to discuss any anticipated adjustments to our annual budget in light of the Board's needs and responsibilities.

As an essentially volunteer organization, the Board is comprised of individuals who come from myriad backgrounds but who possess at least one fundamental trait in common: we all care deeply about education in Vermont. Board members spend countless hours preparing for, attending, and actively participating in meetings, and we share respect and admiration for the unique paths that brought each of us to our positions. We are all grateful for the trust that has been given to us by the Governor and the General Assembly to consider, debate, and resolve educational policies and issues as they arise, and we look forward to continuing this important work in the coming year.

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