

What makes the Act 73 independent school tuitioning restrictions unconstitutional?

The Vermont Constitution's "Common Benefits Clause" says:

"government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single person, family, or set of persons, who are a part only of that community ..." (Chapter I, Article 11)

The clause means ***the State cannot play favorites***. It cannot advantage or disadvantage a particular group of Vermonters without what the Vermont Supreme Court says must be *"a reasonable and just relation to a governmental purpose."* ***The Act 73 provisions fail to meet this requirement.***

25 Percent Limit

The 25 percent requirement says a Vermont independent school's enrollment must be at least 25 percent publicly tuitioned students for the school to remain eligible for tuitioning. This is an arbitrary limit. Why 25 percent? Why not 13 percent, or 74 percent, or any other number? Act 73 gives no rational explanation.

Certain Supervisory Union/District Exclusions

Act 73 blocks tuitioning to any independent school within a Supervisory Union or Supervisory District which has no school-choice towns within its boundaries. This blocks tuition to schools in population or commercial centers while not affecting schools in more rural regions. This affects families who transport their children to a school while commuting to a job. While both secular and religious schools are blocked, the religious schools are much more seriously affected.

Out-of-State Tuitioning Limit

Students from several Vermont regions have commuted across the state line to nearby public and independent schools for many decades. During the 2023-2024 school year, 100 students were tuitioned to out of state independent schools while 274 were tuitioned to out of state public schools.

Now however, Act 73 prohibits tuitioning to any out of state independent schools *while still allowing tuition for students who commute to out of state public schools*. Why is this distinction necessary? Act 73 does not give a rational or compelling reason to deny the out of state independent school option to some families while allowing other families to send their children to out of state public schools.

A list of affected schools appears on the back side of this page.

Act 73 Impact on Tuitioning Eligibility

Schools Still Eligible

Burke Mountain Academy, Burke
Burr & Burton Academy, Manchester
East Burke School, Burke
Expeditionary School, Ludlow
Killington Mountain School, Killington
Long Trail School, Dorset
Lyndon Institute, Lyndon
Maple Street School, Manchester
Mountain School at Winhall, Winhall
Okemo Mountain School, Ludlow
Riverside School, Lyndon
The Sharon Academy, Sharon
Southshire School, North Bennington
St Johnsbury Academy, St Johnsbury
Stratton Mountain School, Stratton
Thaddeus Stevens School, East Burke
Thetford Academy, Thetford
Village School of North Bennington

Vershire

Out-of-state schools now are ineligible, including these often attended by Vermont students:

Massachusetts:

Academy at Charlemont
Northfield Mount Hermon School, Gill
Pine Cobble School, Williamstown

New Hampshire:

Kimball Union Academy, Meriden
Lupine Montessori School, Littleton
Mount Royal Academy North, Lancaster
White Mountain School, Bethlehem
Woodland Community School, Bethlehem

Quebec:

Stanstead College, Stanstead

Schools Made Ineligible by Act 73

All Saints Academy, Morrisville
Bridge School, Middlebury
Caledonia Christian School, St Johnsbury
Christ the King School, Burlington
Christ the King School, Rutland
Good Shepherd Catholic, St. Johnsbury
Grace Christian School, Bennington
The Grammar School, Putney
Green Mountain Montessori, Essex
Green Mountain Valley School, Waitsfield
Hiland Hall School, Bennington
Hilltop Montessori School, Brattleboro
Kurn Hattin Homes School, Westminster
Lake Champlain Waldorf, Shelburne
Mater Christi School, Burlington
Mid Vermont Christian School, Quechee
Mount Mansfield Academy, Stowe
Mount Snow Academy, Dover
Mount St Joseph Academy, Rutland
Mountain School of Milton Academy,

Orchard Valley Waldorf, East Montpelier
Pacem School, Montpelier
Pond Brook Project, Bristol
Putney School, Putney
Red Fox Community School, Manchester
Rice Memorial High School, S. Burlington
Rock Point School, Burlington
Rutland Area Christian School, Rutland
Sacred Heart School, Bennington
The Schoolhouse, South Burlington
St Francis Xavier School, Winooski
St Michael's Catholic School, Brattleboro
St Monica-St Michael School, Barre
St Paul's Elementary School, Barton
Upper Valley Waldorf School, Quechee
Vermont Academy, Saxton's River
Vermont Acad. of Science & Tech, Randolph
Vermont Commons School, S. Burlington