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Guidance: Failure of a New Union School District to Adopt a Budget

The substance of this information was made publicly available to legislators and superintendents in April and early May. Now that the 2019 legislative session has concluded without making changes to the laws mentioned below, the Agency is re-issuing the same information in this format for ease of reference.

The Agency provides this guidance to assist new Union School Districts as they transition to full operations. A district should consult its legal counsel and should always follow the advice of that legal counsel if it conflicts with Agency guidance.

The Transitional Board of each State Board-created union school district (New Union District) has two primary duties: (i) to warn a meeting to elect the members of the New Union District's Initial Board; and (ii) to begin the work necessary to assist the Initial Board members to create a proposed FY2020 budget to present to the voters. (Article 9)

The Default Articles require the elected members of the Initial Board: (i) to receive a draft proposed FY2020 budget from the Transitional Board at the Initial Board's first meeting; (ii) to prepare a final proposed budget; and (iii) to warn a special meeting of the voters to vote on the proposed budget. (Article 10(D)(iii)(b) and (E)) Title 17 of the Vermont Statutes requires the Initial Board to publish and post the budget warning 30-40 days in advance of the vote.

If a New Union District becomes operational on July 1 without a voter-approved budget in place, then the following applies:

1. If the New Union District does not have a voter-approved budget as of June 30, then pursuant to 32 V.S.A. § 5402:
 - a. The Department of Taxes will assign an interim homestead tax rate of \$1.00 to the New Union District.
 - b. The interim tax rate will be divided by the CLA and levied by the towns.
 - c. The towns will collect the taxes and send them to the Education Fund.
 - d. The towns cannot disburse these funds to the New Union District until the New Union District has a voter-approved budget.
2. Subject to the limitations outlined below, if a New Union District does not have a voter-approved FY2020 budget, then:
 - a. 25% of base education amount per equalized pupil would be available to the New Union District on September 10 (16 V.S.A. § 4028).
 - b. State categorical grants (Small Schools Grant, Transportation Grant, etc.) owed to the New Union District would be available on September 10.

- c. Any federal funds owed to the New Union District would be available. The timing for the receipt of payment varies.
 - d. Fund balances and monies held in reserve accounts would be available on July 1, 2019 when title to the Forming Districts' assets transfers to the New Union District.
 - e. The New Union District would have authority to borrow "sufficient funds to meet pending obligations." (16 V.S.A. § 706j(8)).
 - f. If granted by the voters at the Organizational Meeting, the Initial Board of a New Union District would also have authority to borrow money pending receipt of payments from the Education Fund, in addition to the borrowing authority necessary to meet pending obligations in (e) above (16 V.S.A. § 706j(8)).
3. Note, however, that:
- a. A New Union District will not have the authority to spend (or borrow) any funds listed above unless:
 - i. The New Union District completes its organizational meeting; and
 - ii. The voters of the New Union District elect the members of the Initial Board.
 - A. Until the New Union District's Initial Board is elected, the New Union District's Transitional Board—once sworn in—would have some authority to borrow money, at least in relation to pending obligations, and to make payments because the default articles authorize the Transitional Board to take actions necessary to operate the district until the voters elect the Initial Board (see, e.g., Article 9(C)(ii)).
 - b. The Forming Districts and their respective School Boards:
 - i. Will have no legal authority to exercise responsibility after June 30, 2019 for the education of students living in the New Union District—educationally or financially.
 - ii. Will have no legal authority to prepare and warn a FY20 budget for the New Union District.
 - iii. Will have no legal authority to borrow or spend funds in support of the New Union District.
 - c. There is no authority in statute for the New Union District to borrow money up to 87% of its "most recently approved school budget" per 16 V.S.A. § 566, because the New Union District does not have a "recently approved school budget."
4. When all seats on a school board are vacant, the Secretary of State is directed to call a special election to fill the vacancies (16 V.S.A. § 424) and, in the interim, to authorize a qualified person to draw orders for payment of the district's obligations (16 V.S.A. § 706l(4)).