

TESTIMONY ON RULES 3400 - STATE BOARD OF EDUCATION TUESDAY MARCH 21, 2017

To: The Vermont State Board of Education
Ms. Krista Huling, Acting Chairman

Thank you Madam Chairman and Members of the Vermont State Board of Education for this opportunity to give comment on the revision of Rules 3400 which govern the implementation of Alternative Governance Structures under Act 46.

It is difficult to know where to begin. I realize this occasion is meant to provide an opportunity for comment and perhaps to suggest edits to the revision of the Rules 3400. As a lay person in this endeavor it is difficult to assess where, in this labyrinth of Rules, alterations or remedies should occur....though I do have some questions and a suggestion or two.

What has drawn me to this effort to comment is my very strong feeling that the small rural school in Vermont is, and has been, a very important institution in the lives its children and therefore should be protected and revered. The success for which Vermont students have been recognized, at home and abroad, began, after all, in a variety of small rural schools throughout the State. I am grateful that this legislation and these Rules are providing a pathway for those communities that do not wish to give up the absolute control of their local schools through merger, and will have the option to use the Alternative Governance Structure for meeting the goals of Act 46.

There are some good aspects to Act 46...the goals of greater educational equity and finding ways to lower the costs of education in the face of declining enrollments are worthy. I feel that with a strong public promotion of our state's attributes(much like what Michigan and New York have done) combined with a strong campaign by State leadership and creative personal and business tax reform will all contribute to ensuring future growth in Vermont.

Act 46, as good as its intentions are, also strikes me as being driven by a big city, big government, corporate mentality approach attempting to resolve a small state, small town solution. All of our problems are not the fault of small schools. We know from experience, here and elsewhere, that budgets in consolidated school districts tend to increase each year. Big school districts are the cost drivers. They are able to spread costs for new programs over a larger population and so they seem efficient, their spending per pupil seems low. Reminds me of the man who tries to explain to his wife, after her repeated visits to the 'sale rack', that they are going to go broke saving money.

Each year towns are forced to pit taxpayers against school boards in order to justify budgets. Declining enrollments have exacerbated this debate. When the administration proposes borrowing from the Education Fund, more public concern is aroused. Our problems in Vermont around funding for education have more to do with how we fund education than whether or not we are spending too much or too little. The current legislation outlined in Act 46 is in response to many Vermonter's appeals to the legislature to find a solution for lowering property taxes. Would the clamor be any less if the cost for education were not the focus? Some legislators have claimed that the process to shift education costs to the income tax, in itself, would be too costly. I do not know, but what I do feel is that a more equitable way to fund education would be to base the obligation on one's ability to pay....not on the uncontrollable fluctuation in property values. A more income-

based approach needs to be found and I know there are several Bills pending in the Legislature to begin to deal with this issue.

The strong reaction being voiced from many towns throughout the State either with the defeat of merger votes or budget defeats has fueled interest in finding alternative pathways to achieve the goals of the Act. Alternative Governance Structures, as an approach, has not been promoted by administrators, study committees, consultants and others in favor of merging, and it seems to me the reason is because the thinking on the part of the 'one size fits all' Legislature has been that consolidation is the more obvious solution to achieving the stated goals.

Laws and Rules governing a change in how business gets done often does not provide for an emotional component....how people may be feeling about what is being proposed or mandated. Alternative Governance Structures gives communities an opportunity to 'do it their way', to design their own path to achieving the stated goals. In some cases, much has already been accomplished in performance outcomes and cost savings. Much more can be done and will be done if communities are given the chance to find their own way rather than being told or penalized for not following a 'company' model. Bottom up solutions are often much more successful than those from the top down.

When I first began to study Act 46 and to hear the arguments for merging, much of what I heard was based on the 'tax' benefits that communities would receive were they to follow the preferred model....or even the conventional model,later to be referred to as 'transition' costs. Whatever they are called, it seems to me it might have been better to have offered them to districts at the end of the process, after they had actually achieved some progress on the goals. Given that the AGS is a part of this Law, it seems unfair to those who choose to follow this option be denied tax benefits and/or transition grants for their decision.

Be that as it may, many town school districts have chosen....either for the benefit incentives or for the betterment of their school children, to consolidate, abandoning their school boards and relying on a larger governance unit to oversee the education for all of the children in their districts. Many other school districts and supervisory unions have not been so quick to concede that doing so is in the best interest of their towns, their children or their district.

As one who lives within a Supervisory Union, it was my feeling from the beginning that we had enjoyed, for many years, the benefits of a well-functioning governance structure. We have managed to achieve some cost savings in ways we did business and yet do realize that there are educational inequities among some of our member schools. The transparency of overseeing our own budgets is clear...we know where the money is coming from and how it is to be spent. We feel that we have a voice in the Supervisory Union through our district representative, appointed by our School Board which is elected by us. For us, the involvement and connection we have in our community schools and that which we share with our member districts, represents a big family of schools working together for all our children. Even the issue of Choice (a legislated prerogative held by one of our member schools) which has divided so many communities and has in some cases, stalled unification, has never had a negative effect on other schools in our district. It has worked well in our Union for over 50 years.

After spending much time since a year ago January looking at or attending Study Committee meetings, I can say that their discussions were focused on only those options which spoke to merging school districts in some way. At the time, I was not aware that non-merger options were under the purview of the School Boards only. In any event, by this Spring, the Study Committee's discussions became sidetracked by the withdrawal of one

of the member towns from the Study Committee. After a missed June deadline for an Accelerated merger and the withdrawal of the same town from membership in our District, two subsequent failed votes to affirm the withdrawal by one member town, our current Conventional four-town merger proposal is now on hold.

Those of us who had been advocating for an alternative solution looked to the Alternative Governance Structure as described in the Rules 3400 Sec. 9 and I, for one, was somewhat amazed to realize that it is the mirror of our current governance structure. This certainly seems fortuitous and surely an indication that the authors of this Law realized this governance structure could and should be the choice for some communities. The challenge now for us is, whether we can convince other members of our Union District to join us in exploring whether or not our governance structure can be modified in such a way as to be sustainable in reaching the goals of the Act.

Many of us think it can be done. We think we can build upon the good work of this Union to increase educational equity where necessary, to cut costs where we have already identified areas open to adjustment, and to create an even better Union of large and small schools working together to create opportunities for all of our children at a cost that taxpayers can value.

CONCERNS

Proposing an alternative structure under Act 46, Sec. 9

Other than being concerned about some of the language regarding 'best means' of achieving the goals of Act 46, or whether our Union had 'the fewest districts practicable,' (whose definitions of 'best means' or 'fewest....practicable' would they be?) my concern and my hope is that if we were to submit a proposal under Act 46 Sec. 9, it would not be judged dismissively simply because it was not a proposal for merger. Hopefully, our proposal would be evaluated on the basis of our having conducted a rigorous self-examination of our current ability to meet or exceed the goals of Act 46 and that it reflects our confidence that this can be done while appreciating the opportunities that can arise from regional cooperation.

I also would just reiterate that for those choosing an AGS, I would hope that some financial assistance could be considered to help with this reorganization.

It would be remiss of me, especially if you have gotten this far, not to thank you for all your work on behalf of Vermont's children, who are, after all, the future of our State.

Sincerely,

Richard R. Virkstis, Dummerston, VT

Public Comment - Alternative Structures Rule 3400 March 21, 2017

Dear Vermont State Board of Education,

I want to share brief comments regarding the need for support for Alternative Governance Structures in order to achieve the laudable goals of Act 46 for greater efficiency, equity and transparency.

Act 46 garnered legislative support, I believe, because it offered flexibility for achieving the stated goals. Legislators were aware of how circumstances differ throughout the state and what works for Chittenden County may not work for Windham County. I know our local boards have been thoughtfully engaged in thinking about Act 46 but it didn't seem to our board that the preferred merger option would help achieve the Act 46 goals and our voters, and those from our surrounding towns, resoundingly agreed with this assessment in the recent election.

I think Act 46 was also supported because it gave our local voters final say on consolidation and our voters have spoken quite clearly against the preferred merger approach. We look forward to consideration of alternative governance structures that might better achieve Act 46 goals. But there seems to be a lack of clarity or support for the process for approval of alternative governance structures. I hope the board can make the process as streamlined as possible to encourage districts to find ways to meet Act 46 goals that our communities can support and have a good chance of achieving successful results.

As an educator and board member, I know the value of local boards is vital to the health of our communities and to the success of our students. Westminster has valued a strong school-community partnership for decades. The close relationship of the community to our school has resulted in a model school garden program, an exceptional farm to table food program supported by local farmers, an in-development experiential learning immersion program for all students, and, most importantly, a responsive school where each student is known well and the individual needs of each child is met by a system that can be flexible and personalized to support each child. This kind of individual responsiveness is the real heart of equity. Equity is about much more than just access to program offerings—attention to individual students and families is what matters for more equitable results.

I know our citizens don't want to lose the involvement in town meeting and the closeness to school board members that is central to participatory democracy and the connections within our community. At a time when many in this country feel powerless to impact national policy, it would be shameful to give up what is probably the one place we still have real input as citizens into policy and spending that matters to our lives.

We believe that there are alternative governance approaches that can help with efficiencies and equity. I know our local school boards could work together simply by meeting together every other month to explore shared opportunities. This would cut in half meetings for the superintendent and open the door to countless possibilities for better collaboration across

districts. Likewise, I am sure there are arrangements within the SU that could facilitate more sharing of teachers and simplification of contracts.

There surely are ways to meet the goals of Act 46 beyond the preferred merger structure. In fact, I think the preferred model is likely to be less effective, in many areas, for achieving these goals than some other alternatives.

I encourage you to do whatever you can to support alternative governance approaches and help all our districts pursue ways to realize the goals of Act 46 while retaining qualities of our schools and districts that are valued by our communities.

PS Our school budget was down by several percent despite a several percent increase at the SU level—local boards can control costs and often better than the central office.

Thank you for your consideration.

Sincerely,

Rick Gordon, PhD.
Westminster School Board

Thank you all for your time today, and for your commitment to Education in Vermont.

I come before you today with some very specific comments on the draft A S rules, but also to make a broader statement about the way it has felt to be on the receiving end of Act 46 since its inception. I was born here and have lived here my entire life, and have been a School Board member for over 30 years, but I am disappointed in the way that Act 46 has spread fear and anxiety among the people of the state and the way that it has divided us, has split the residents of individual towns and the residents of neighboring towns apart. The irony is that the Legislature has passed this Act and we, the residents of Vermont, are the ones left to implement it and are the ones to create the divides between towns and neighbors. Residents within towns are blaming each other, and neighboring towns are blaming each other as well.

One of my main frustrations about the implementation has been the timeframe: Here is a brief outline of my own town's efforts:

We immediately formed an Act 46 committee after the bill was passed, in the summer of 2015. We then participated in an Exploratory Committee with our entire SU. The result of the E C was that the School Board, simultaneously, formed an Alternative Structure (hereafter referred to as an A S) Committee to explore that option, and we became members of a merger 706 (b) Study Committee (hereafter referred to as a Study Committee or S C) to study merging with 2 neighboring districts within the SU, which would have meant changing our educational structure but staying neatly within our SU.

It was our fervent hope that we would be able to present to the voters 2 options at the same time so they would be able to make informed choices. However, the Study Committee was anxious (because of time pressures provided by the Act which are in the form of financial carrots and heavy-handed force-merge sticks) to get a vote at the 2017 Town Meeting and was unwilling to extend that time, and it was simply impossible to get an A S proposal formulated, vetted, and presented to the voters at this same meeting. As you all know, I am sure, the rules came out in draft form in August, we provided feedback shortly thereafter, and the second round of Rules which govern A S were still in draft form until about a week before T M and are still in draft form as of today- how is it possible for a town to make informed choices under these circumstances? Merger Study Committees plowing ahead under the time and incentive crunches, and A S proposals without any real guidance? The Legislature and the AOE have, whether intentional or not, created an atmosphere of fear and anxiety around these decisions because the parameters are unclear and the time frame continues to bear down upon us.

I mention also the plight of our neighbor Dover, which was an interested and forthcoming partner in our Merger S C. Both Dover and Wardsboro were Necessary members (although Marlboro was not, we were Advisable), so when Wardsboro voted no to the merger proposal Dover is left in limbo. This situation, also, could have been avoided if more time had been spent on the proposal and the Committee did not feel such pressure to get the June 2017 incentives.

I recognize that this Board has no control over the Legislature, and I recognize that the Board has autonomy from the Legislature, but these Rules are being drafted by the Agency and I hope that you will send them back to the Agency before adopting them-ask for clarification and amplification of the A S procedure and for more time to be added so studies can be done well and with long-term benefits. if I were in your position I would not be comfortable implementing these rules when we are all asking the people of Vermont to make important decisions about the education of their children in such a short time.

3410.7 reference to NPD no indication of the significance of this why are they even referred to here?

3420 Purpose (1). To lay out a process whereby a district may apply..... Not much info here on this process..... it is stated that the info gathered by the S C's may be useful as a part of the info needed for an A S proposal, but honestly very little time was spent on this in our S C and I am surprised that the Articles presented were accepted so quickly by the Agency- this in itself indicates a certain bias on the part of the Agency, I believe.

3440.1 Timeline: Marlboro has been a cooperative member of a merger Study Committee which would have required that we change our structure from K-8 to K-6. The voters of Marlboro forcefully turned this down at the 2017 Town Meeting. However, one of the reasons the voters were comfortable doing so is because Article 18 of the S C Articles clearly allows Marlboro to vote to re-enter the merged District before March 31 2018 without penalty, after having explored other options. Warning this vote, should we decide to go this route, would require Marlboro to make this decision sometime in February 2018. So here we are again up against the Catch 22 of the timelines: we will submit a Proposal for A S to the Board as quickly as we can, but have no surety of having any kind of response by the time we need to decide about voting to re-join. **I strongly recommend that the Board and the Agency clarify these dates: when is a Proposal due AND how much time will the Board have to respond to a submitted Proposal.** As stated above, the Agency approved the Articles of a Preferred Structure proposal within a couple of weeks during the holiday season last year.... this would allow Districts to know what was going to be happening in time for voters to make informed choices.

one more personal note: many of us are exhausted after more than 2 years of working to understand and comply with Act 46 without feeling like we are getting plowed under the plowtruck. It is tempting to just give up and let whatever happens, happen. I am self-employed and can take time as needed, but many younger people who want to be involved with their children's education can not take the time needed to try to influence this legislation and its implementation and are accepting the results as inevitable or impossible to change. This may be an unintended consequence of the law, with its vague and undefined Rules and its ever-present timeline pressures, but it is a consequence nonetheless and this is no way to have the younger citizens of Vermont feeling about their government and the education of our children.

I ask you to Please consider the plights of Marlboro and many surrounding towns as you look at the ways in which the rules will be implemented, and tell the Agency make changes to the rules as needed so they will be useful to really address educational issues in Vermont. Thank you

Testimony received from Dan MacArthur on 3/19/17.

Public Comment - Alternative Structures Rule 3400

March 20, 2017

Randall Szott and Pamela Fraser (Barnard, VT)

SBE -

We carefully reviewed the public commentary and responses from the public comment period ending 12/20/2016. We are thankful to the SBE for considering the commentary and making some much needed clarifications and revisions to the rules.

As you may know, Barnard recently voted on the Windsor Central merger proposal, and along with Reading, decisively voted NO. There were many motivations, but the pervasive attitude expressed was that the plan was inherently unfair. There was not opposition to finding innovative solutions for sharing resources and increasing educational opportunity. The plan we voted on made two decisive mistakes - it created a wildly unbalanced new governance structure (despite being urged to consider the "hybrid" model for board representation) and it did not provide adequate protection for towns affected by potential school closure (despite reasonable suggestions that enrollment and budgetary "triggers" could be added that would bypass the potential veto power of a small town). Changes to those provisions might have led to passage despite other objections some of which are below.

The path forward for our town and school remains unclear. We need the rules to clarify if the pending Statewide Plan would simply disregard the vote in our town and force us into a merger that violates the expressed will of the people (Rules 3440.3 and subsequent). If so, we also need the rules to clarify whether the Sec. of Education or someone else will aid our town in negotiating entry on more equitable terms as part of the Statewide Plan.

A major point of clarification is needed regarding the specifically enumerated conditions that facilitate application for approval as an Alternative Structure - we clearly believe that Act 46's goal of achieving equity (on which you have received several comments previously regarding a needed definition) was violated by the plan we voted on.

Do the rules allow for an Alternative Structure based on isolation due to an unreasonable and unfair merger proposal that places unequal burden on students and their community? Could Rule 3440.8 be amended to include "(4) D: A school district that lawfully voted to reject merging due to extenuating circumstances rather than to circumvent the goals of Act 46"?

The merger plan we rejected proposed that our school lose students through restructuring (converting our PK-6 school to PK-4) clearly placing our school on a path to closure due to entirely avoidable insufficient enrollment and thus appears to violate Sec. 1. FINDINGS (i) of Act 46 . It should be noted that the original proposal was even more egregious, proposing to cut our third and fourth grade classes as well, all for the sake of funding the wish list of neighboring towns.

It should also be noted that the majority of the members of the Study Committee that proposed these changes now sit on the newly merged board. In this regard, the SBE should clarify whether rule 3440.8 (3) might apply given that the Statewide Plan, were it to force us into the existing merger

proposal would in fact, "include a change that would require a district to alter its current operating or tuitioning structure."

This part of the merger proposal might also be a violation of the equal protection of our students due to forcing them to make unnecessary social adjustments and bus travel while exempting students from other towns from this burden. Clarification is needed whether the rules (possibly 3440.11 regarding impact on students) will provide legal remedy, or whether it is a constitutional question. The inclusion of "school choice" in our merger plan, as previously discussed with Donna Russo-Savage will likely be ripe for legal challenge on an equal protection basis as well.

Any consideration you can give to this matter is appreciated. Barnard needs your assistance in making sure we continue to provide a quality education for our students.

Respectfully,

Randall Szott and Pamela Fraser

