

Vermont State Board of Education***Legislative Policy Recommendation: Union School District Disaggregation*****From: Oliver Olsen**

Since the passage of Act 46 in 2015, over 100 Vermont school districts have merged into larger union school districts, in order to meet the policy goals outlined in the legislation. Most of these mergers took shape during the initial, voluntary phase of Act 46; a smaller number were merged under the State Board of Education's (SBE) final order issued in November 2018.

Both phases of merger activity brought about by Act 46 were not without controversy, and the concepts of fairness and consistency were present throughout the public discourse. The SBE played a significant role in both phases, and took great care to fairly and consistently evaluate how each proposed merger met the policy goals established under Act 46.

Act 46 set forth five policy goals aimed at creating larger, more sustainable, school governance units to provide greater educational opportunity to Vermont students. It deferred to an existing statutory framework in Chapter 11 of Title 16 as the procedural mechanism for the creation of merged governance structures. Many of the provisions of Chapter 11 predate the passage of Act 46 by more than fifty years, including 16 V.S.A. § 724, which provides a legal process for member municipalities to withdraw from union school districts, as well as the complete dissolution of union school districts. This SBE has already been involved in one union district dissolution under this statute this year, and we expect to see more over the coming years.

Change is a constant and the SBE supports a statutory framework to allow for periodic realignment of school district configurations across the state, as the need may arise.

Since the withdrawal mechanism in 16 V.S.A. § 724 predates Act 46, it never contemplated, and has no provision for, an assessment of how disaggregated districts will meet current policy goals established by the General Assembly. Under 16 V.S.A. § 724 the SBE has a limited, somewhat ministerial role in the process, in which the board confirms that there are schools willing to accept students from the proposed disaggregated districts. Under current law, the SBE cannot consider the sustainability of the proposed governance structures or how the new districts will advance the policy goals set forth in Act 46.

The question we submit to the General Assembly is this:

Does the General Assembly intend to allow school districts to dissolve into smaller governance units that do not comport with the policy goals articulated in Act 46?

On one hand, the General Assembly can let current law stand, which will likely result in the creation of smaller school districts that do not conform to the goals of Act 46. Or the General Assembly could

reaffirm its commitment to the policy goals of Act 46 by requiring consideration of these goals when districts seek to re-align or otherwise change their governance structures.

The SBE does not have a position on this threshold question. But if the General Assembly plans to amend the statutory framework governing school district withdrawal and disaggregation, we would urge the General Assembly to develop a mechanism that replicates the same standards and similar processes that governed district mergers during the Act 46 process. In other words, where one or more member towns propose to leave (or entirely dissolve) a union school district, they should be required to assess the viability of each resulting district under the same standards established by Act 46, or develop a plan to merge with another district (or districts) and show how such proposal meets the policy goals of Act 46. The SBE would be the arbiter of these proposals, just as it was under Act 46. This approach would ensure consistency and fairness, by respecting the difficult decisions that many districts have had to grapple with - many voluntarily, but some involuntarily. Additionally, the SBE has an extensive record that emerged from the Act 46 process, which can continue to be relied upon to help guide its decisions, allowing for future flexibility, ensuring continued adherence to the policy goals of Act 46.

By developing a consistent analysis for considering proposed changes to the structure and composition of governance units, there will be an even playing field for stakeholders to measure success and for overseers to apply public policy more uniformly.