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Agency of Education

April 9, 2021

William Adams, Chair
Town of Stowe Selectboard
67 Main Street
Stowe, Vermont 05672

RE: Petition for Stowe to Withdraw from Lamoille South Unified Union School District

Dear Mr. Adams,

We understand that some Stowe residents are interested in withdrawing from the Lamoille South Unified Union School District (“LSUUSD”).

Pursuant to the requirements of Act 46 (2015), as amended, the State Board of Education created 11 new union school districts in an order dated November 28, 2018, including the LSUUSD. The Vermont Supreme Court confirmed the validity of the Board’s order in 2020 in its Athens decision.

Seven of the new districts are unified union school districts (PreK-12 – “UUSD”). Each union school district became solely responsible for the education of its resident students on July 1, 2019 and therefore has completed its first operational year.

16 V.S.A. chapter 11 governs the creation, operation, and dissolution of union school districts. Section 724 of that chapter sets out the process for withdrawing from or dissolving a UUSD.

Section 724 states that a “town or city corresponding to a preexisting school district that voted to form” a UUSD may vote to withdraw after the first year of operation. In addition to withdrawal of one member, this also can be the first step taken to dissolve a UUSD.

The plain language of § 724 would permanently prohibit a member of a State Board-created UUSD from pursuing withdrawal / dissolution because the forming districts of these UUSDs did not “vote to form” the UUSD.

Nothing in Act 46 or subsequent related legislation indicates whether or not the Legislature intended to permanently deny members of these UUSDs from pursuing withdrawal / dissolution at any time in the future. For example, nothing in these acts:

- i. Authorizes State Board-created UUSDs to pursue withdrawal / dissolution under 16 V.S.A. § 724 in the second year of existence despite the plain language of that statute.

- ii. Prohibits State Board-created UUSDs from pursuing withdrawal / dissolution.
- iii. Requires State Board-created UUSDs to remain in existence for a specific number of years.

It is unclear whether the Legislature's reticence on the subject reflects its assumption (i) that the plain language of 16 V.S.A. § 724 would prohibit dissolution / withdrawal or (ii) that a State-Board-created UUSD is nevertheless a UUSD and so can avail itself of § 724.

Considering the potential policy behind either interpretation is not helpful. It is equally as likely that the Legislature intended that a UUSD created by an Order issued after an exhaustive, multi-year process would not be able to dissolve one year after it became operational, as it is likely that the Legislature would not permanently prohibit the withdrawal from / dissolution of any such UUSD.

Until the Legislature clarifies its intent, the plain reading of 16 V.S.A. § 724 – taken together with the absence of any indication in Act 46 or elsewhere that the statutory withdrawal / dissolution process extends to a State Board-created district despite the clear statutory language – supports the conclusion that a State Board-created union school district is prohibited from pursuing withdrawal / dissolution.

If the Legislature clarifies its intent and the Stowe residents are able to pursue withdrawal from the LSUUSD under § 724, then we would be happy to discuss with you the nature and limits of the Selectboard's role in the process.

Sincerely,



Emily Simmons
General Counsel
Vermont Agency of Education

