

AGENCY OF EDUCATION

Barre, Vermont

TEAM: Legal (School Governance)

ITEM: Will the State Board of Education approve the request of the **WINDHAM CENTRAL SUPERVISORY UNION (SU)** Board to waive the 16 V.S.A. § 266 default requirements for appointments to the Board pursuant to 16 V.S.A. § 261(d)?

SECRETARY'S RECOMMENDED ACTION:

That, pursuant to 16 V.S.A. § 261(d), the State Board of Education approve the request of the Windham Central SU Board to waive the 16 V.S.A. § 266 default requirements for appointments to the Board, and that membership on the SU Board shall be appointed as follows, effective on July 1, 2019:

- **Two members from the Marlboro School District Board.**
- **Three members from the River Valleys Unified School District Board.**
- **One member from the Stratton School District Board.**
- **Six members from the West River Modified Union Education District Board.**
- **Two members from the Windham (Elementary) School District Board.**

STATUTORY AUTHORITY: 16 V.S.A. §§ 261(d), 266

BACKGROUND INFORMATION: On March 7, 2017, the voters of the districts of Brookline, Jamaica, Newfane, and Townshend (each PK-6) approved the proposed merger of their districts with the Leland and Gray Union High School District (7-12) to form a new unified union school district. The voters of the Windham School District (PK-6) did not approve the proposal. On May 18, 2017, the West River Modified Union Education District (WRMUED), a modified unified union school district, became a legal entity pursuant to 16 V.S.A. § 706g and 2012 Acts and Resolves No. 156, Sec. 17, as amended. The WRMUED will be fully operational on July 1, 2019.

On May 1, 2017 and July 11, 2017 respectively, the voters of the Wardsboro and Dover School Districts approved the proposed merger of their districts into the River Valleys Unified School District (RVUSD). The RVUSD became a legal entity on August 21, 2017 and will be fully operational on July 1, 2019.

The Windham Central SU has three additional member districts: the Marlboro School district (PK-12; tuitioning grades 9-12); the Stratton School District (PK-12; fully tuitioning); and the Windham School District (PK-6).

The WRMUED comprises four towns for which it will provide education in PK-12, and one town for which it will provide education in grades 7-12. Beginning on July 1, it will operate multiple school buildings located throughout the district. In fiscal year 2018, the most recent fiscal year for which data are available, the districts that formed the WRMUED had an average daily membership of approximately 453:

- Brookline (K-12) – 70
- Jamaica (K-12) – 87
- Newfane (K-12) – 148
- Townshend (K-12) – 138
- Windham (7-12) – 10

The RVUSD comprises two towns and provides for the education of its students by operating schools in both towns for PK-6 and paying tuition for grades 7-12. In fiscal year 2018, the districts that formed the RVUSD had an average daily membership of approximately 235:

- Dover (K-12) – 143
- Wardsboro (K-12) – 92

The comparable average daily membership of the three unmerged districts in the SU was:

- Marlboro (K-12; tuitioning grades 9-12) – 119
- Stratton (K-12; fully tuitioning) – 47
- Windham (K-6) – 15

Unlike membership on the board of a school district, there is no constitutional requirement of proportionality for membership on an SU board.

16 V.S.A. § 266 directs the board of a school district to appoint three of its members to an SU board if the district operates one or more schools. The board of a school district that pays tuition for all of its students appoints one of its members to the SU board.

Pursuant the § 266, the current Windham Central SU Board has 28 members:

- Brookline School District – 3
- Dover School District – 3
- Jamaica School District – 3
- Marlboro School District – 3
- Newfane School District – 3
- Stratton School District – 1
- Townshend School District – 3
- Wardsboro School District – 3
- Windham School District – 3
- Leland and Gray Union High School District – 3

On July 1, 2019, the day on which the WRMUED and the RVUSD become operational, the Windham Central SU will have five member districts, rather than its current membership of ten districts. Pursuant to § 266, membership on the Windham Central SU Board will be reduced from 28 to 13 individuals:

- Marlboro School District – 3
- RVUSD – 3
- Stratton School District – 1

- WRMUED – 3
- Windham School District – 3

The State Board is authorized to waive the default requirements of 16 V.S.A. § 266 on the request of an SU board if the “waiver will result in efficient and effective operations of the supervisory union; will not result in any disproportionate representation; and is otherwise in the public interest.” 16 V.S.A. § 261(d)

The Windham Central SU Board requests that the State Board exercise its authority under 16 V.S.A. § 261(d) to waive the default SU composition in favor of an SU Board with 14 members as follows:

- Marlboro School District – 2
- RVUSD – 3
- Stratton School District – 1
- WRMUED – 6
- Windham School District – 2

POLICY IMPLICATIONS: On July 1, 2019, pursuant to 16 V.S.A. § 266, the members on the SU board who represent the interests of the students and voters of the two-town RVUSD will be reduced from six to three, and the five-town WRMUED will be reduced from 15 to three (four town districts + UHSD).

Membership of the Marlboro and the Windham School Districts will remain constant at three SU Board members each. The Stratton School District will retain its one seat on the SU Board.

Although the Constitution does not require strict proportionality for membership on an SU board, adherence to the default numbers in this situation seems unfair on its face given both the percentage of students for whom each of the five districts will be responsible and the number of towns within each district. Strict adherence to the default requirements set forth in 16 V.S.A. § 266 will result in the “disproportionate representation” that § 261(d) seeks to avoid. The requested Board composition would support “efficient and effective operations of the supervisory union” and be “otherwise in the public interest.”

Accordingly, it is advisable for the State Board to grant a waiver of the statutorily required SU board composition and authorize the Windham Central SU Board to consist of 14 members, appointed by and from the boards of the five member districts in the numbers requested by the SU Board.

STAFF AVAILABLE: Donna Russo-Savage, Staff Attorney