

July 11, 2022

VIA ELECTRONIC MAIL

Patrick Reen, Superintendent of Schools
Mount Abraham Unified Union School District
72 Munsill Avenue, Suite 601
Bristol, VT 05443

Re: *Proposed Mount Abraham Unified School District and Addison Northwest
School District Merger Articles of Agreement*

Dear Patrick:

I am writing regarding the proposed Articles of Agreement approved by the MAUSD/ANWSD Merger Committee for the formation of the Addison North School District. Specifically, you have requested a review of the proposed board membership of the proposed district and whether the Articles satisfy the requirements of the Equal Protection Clause of the United States Constitution.

The Proposed Articles of Agreement designate the necessary/Forming Entities of the Addison North School District as the towns of Addison, Ferrisburgh, Panton, Vergennes, and Waltham (the current members of the ANWSD) and the towns of Bristol, Monkton, New Haven, and Starksboro (the current members of MAUSD).

If the pending withdrawal of Starksboro proceeds, the proposed Articles of Agreement outline how board membership/representation will be determined. Specifically, Article 9 permits adjustment to board membership when “necessary to conform to each decennial census and upon change in membership upon the addition or withdrawal of any member town in/from ANWSD. Such adjustment shall be made without presentation of the amendment to Article 9 to the voters for approval.”

With the granting of Lincoln’s request to withdraw from the Mount Abraham Unified School District on May 18, 2022, and subsequent certification by the State Board of Education and Agency of Education issued on June 17, 2022 (“*Adjustment of Membership in the Mount Abraham Unified School District*”); the proposed Articles of Agreement identify the Lincoln Town School District as an “advisable district.” Lincoln’s inclusion as an advisable district was determined by the MAUSD/ANWSD Merger Committee without the input of the Lincoln Town School District Board of Directors. My understanding is that the Lincoln Town School Board has subsequently informed the Merger Study Co-Chairs that the Lincoln Town School Board has indicated inclusion as

an advisable district does not reflect the direction that the voters of Lincoln overwhelmingly supported as evidenced by the withdrawal vote.

The inclusion of Lincoln as an advisable district in the Articles of Agreement does not obligate the Lincoln Town School District to hold a vote on the merger. This is true under the “old” statute, “The school board of an “advisable” school district is not required to warn a vote of the electorate under sections 710 (vote to form union school district) and 711 (initial members of union school district board election) of this chapter, except upon application of 10 percent of the voters in the school district.” 16 V.S.A. §708(b)(2)(B), see also 16 V.S.A. §706d. This remains the same under Act 176 of 2022.

To be consistent with statute, the proposed board membership may not exceed 18 members, each member town shall have at least one representative, and representation shall be proportional to population. ‘old’ 16 V.S.A. §706b(9); ‘new’ 16 V.S.A. §708(c)(9). Article 9 provides for a fifteen (15) member board and comports with statutory requirements:

Lincoln included: Addison- 1; Bristol-3; Ferrisburgh-2; Lincoln-1; Monkton-2; New Haven-1; Panton-1; Starksboro-1; Vergennes-2; and Waltham-1

Lincoln not included: Addison-1; Bristol-3; Ferrisburgh-2; Monkton-2; New Haven-1; Panton-1; Starksboro-2; Vergennes-2; and Waltham-1

Additionally, Article 9 incorporates the use of weighted voting utilizing the 2010 U.S. Census populations of the proposed member towns. The first chart is with Lincoln as part of the new district, the second is without Lincoln:

Town	Population	Percentage of Population	Board Member(s)	Individual Vote Weight Value	Total Vote Weight Value
Addison	1365	7%	1	7.47	7.47
Bristol	3782	21%	3	6.90	20.69
Ferrisburgh	2646	14%	2	7.24	14.48
Lincoln	1323	7%	1	7.24	7.24
Monkton	2079	11%	2	5.69	11.37
New Haven	1683	9%	1	9.21	9.21
Panton	646	4%	1	3.53	3.53
Starksboro	1756	10%	1	9.61	9.61
Vergennes	2553	14%	2	6.98	13.97
Waltham	446	2%	1	2.44	2.44

Town	Population	Percentage of Population	Board Member(s)	Individual Vote Weight Value	Total Vote Weight Value
Addison	1365	8%	1	8.05	8.05
Bristol	3782	22%	3	7.43	22.30
Ferrisburgh	2646	16%	2	7.80	15.61
Monkton	2079	12%	2	6.13	12.26
New Haven	1683	10%	1	9.93	9.93
Panton	646	4%	1	3.81	3.81
Starksboro	1756	10%	2	5.18	10.36
Vergennes	2553	15%	2	7.53	15.06
Waltham	446	3%	1	2.63	2.63

The Equal Protection Clause of the Fourteenth Amendment requires that each resident be provided equal weight in representation. *Reynolds v. Sims*, 377 U.S. 533, 569 (1964). The Supreme Court has held that congressional apportionment plans with a population deviation of less than 10% constitute a minor deviation. *Brown v. Thomson*, 463 U.S. 835, 842 (1983). The Court has historically required adherence to a 10% maximum deviation rule for congressional redistricting cases. The Court has not required such strict adherence for state and local forms of government if such a standard would so limit citizens from “devising mechanisms of local government suitable for local needs and efficient in solving local problems.” *Avery v. Midland*, 390 U.S. 474, 485 (1968).

The proposed Article 9 uses the 2010 U.S. Census data and the weighted voting permitted by Vermont law. As a result, the variance proposed in the Articles does not exceed five-tenths percent (0.50%) of one percent in either representative chart (Lincoln either as a member or not). The apportioned votes as provided for in the Articles of Agreement are within the requirements of the Equal Protection Clause of the United States Constitution.

I hope that this has been responsive to your inquiry. As always, please do not hesitate to contact me if there are any questions or concerns.

Sincerely,



Dina Atwood, Esq.

DLA/gc

cc: Daniel French, Secretary of Education (email)
Donna Russo-Savage, Esq., Agency of Education (email)
Sheila Soule, Superintendent of Schools-ANWSU (email)
Tracy Wrend-MAUSD/ANWSU Study Committee (email)