



STATE OF VERMONT
GENERAL ASSEMBLY

February 2, 2022

The Honorable Oliver Olsen
Chair, Vermont State Board of Education
1 National Life Drive, Davis 5
Montpelier, Vermont 05620-2501

Dear Chairman Olsen,

As you are aware, on May 11, 2021, by an overwhelming vote of 1,068-464, Stowe voted to withdraw from the Lamoille South Unified Union School District. On May 28, 2021, the Vermont Secretary of State's office sent a letter to the other two LSUU member towns, Elmore and Morristown, certifying the Stowe vote to withdraw. And, on December 7, 2021, both Elmore and Morristown ratified, by substantive margins, the withdrawal of Stowe from the Lamoille South Unified Union.

It has now been seven weeks, and this legal withdrawal of the Town of Stowe from LSUU is now in limbo as the State Board of Education has yet to take up the item.

With this letter, we respectfully request that the State Board of Education place this withdrawal item on your February 16, 2022 meeting agenda, and approve it.

Background

The issue of whether Stowe, Morristown, and Elmore should merge has been studied for 18 years. There were two major studies conducted by committees with representation from all three towns. Both of these studies determined that there was no justification to merge – student outcomes and equity would not improve, and there would be no cost benefit.

The time spent analyzing and weighing the educational and financial implications of this issue and the amount written about this issue has been exhaustive. Close to 200 pages of information on this issue are publicly available.

When Act 46 passed and progressed, both the 2017 Alternative Governance Structure proposal, developed by the Stowe and Elmore-Morristown School Boards, and the 2013 RED Study determined that we had two high functioning school districts; and both recommended that EMUU and Stowe remain as two separate, side-by-side school districts.

The 2017 Alternative Governance Structure proposal was supported by the entire Lamoille County legislative delegation at the time and every School Board Director of the Stowe and EMUU School Boards.

It was also supported by the State Agency of Education when they recommended that the Alternative Governance Structure be approved by the State Board of Education as part of the State Plan.

Ultimately, though, in a split decision, the State Board of Education voted, by one vote, to merge the Stowe and Elmore-Morristown School Districts.

Stowe and Elmore-Morristown sued the State challenging the merger, but lost in court.

So, on July 1, 2019, the Stowe School District and the Elmore-Morristown School District merged into the Lamoille South Unified Union School District.

Then, with a petition filed with the required number of signatures, and with the legal right to do so, on May 11, 2021, the voters of the Town of Stowe voted, overwhelmingly (1068-464), to withdraw from the Lamoille South Unified Union.

Following Stowe's vote to withdraw, the other member towns of the LSUU were required to approve our withdrawal in order for it to be ratified. Those votes in Morristown and Elmore occurred on Tuesday, December 7, 2021, and both member towns approved Stowe's withdrawal.

The withdrawal of Stowe from the LSUU is now in front of your Board for approval, but you have not taken it up because, from what we understand, you are unclear of if the vote was legal and, thus, if you have the authority to approve it.

We believe strongly that the answer to both of those questions is an indisputable "yes."

Why The Withdrawal is Legal – Vote on Record, Articles of Agreement, Disparate Treatment of Similarly Situated Towns

As mentioned above, once the Act 46 State Plan was approved (with the LSUU merger included) by the State Board of Education, the communities sued the State challenging the merger, but lost in court.

As that lawsuit made its way through the process, knowing the legal challenge might fail, the communities came together to prepare themselves for a merger.

And, when the legal challenge was defeated, the merged School Board brought the communities together to move forward so that we could merge seamlessly as of July 1, 2019.

An important part of this seamless transition was that on February 26, 2019, the Lamoille South Unified Union Articles of Agreement were approved by the voters of all three communities.

The Agency of Education has claimed we don't have the authority under Act 46 to withdraw from a Unified Union. Specifically, they have claimed we don't have the authority because 16 VSA, 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 Agency has claimed that our withdrawal is not permitted because we didn't "vote to form" a Unified Union. But, in fact, we did.

- 1) Once we knew the merger was required, the voters of all three communities voted in favor of forming the Unified Union, by voting to approve on February 26, 2019 the Lamoille South Unified Union Articles of Agreement. The merged district would not have been formed, but for the vote to approve the Articles of Agreement.
- 2) Additionally, the Articles of Agreement that were approved by the voters of our communities AND approved by the State Board of Education AND the Agency of Education makes clear the allowance of a withdrawal from the LSUU or a dissolution of it.

a. Articles of Agreement – Article 14 A ii a (Page 8)

The substance of the following Articles can be amended only by a majority of the voters of the New Union District present and voting at an annual or special meeting of the District warned to address this issue:

Article 1, Paragraph (C) (towns of residence for which New Union District is responsible); provided, however, that such amendment must proceed pursuant to 16 V.S.A. § 721 (addition of new member town) or § 724 (withdrawal by member town in year two or after).

Finally, the Stowe Town Attorney, in a letter to the Stowe Select Board in March 2021, made clear the following:

"It is our opinion that the use of the language "that voted" in Section 724(a) does not clearly preclude a vote by the voters of Stowe on the question of withdrawal from the Unified Union School District ... Lamoille South Unified Union District is subject to the statutory provisions of Title 16 which apply to Union and Unified School Districts and the Articles of Agreement. The Articles of Agreement of the

Unified Union District permit one of the forming districts to seek withdrawal in year two or after the merger. See Article 14 A. ii. a. A change in the constituents of the Lamoille South UUSD may occur only by vote of the voters of the “New Union District present and voting at an annual or special meeting of the District warned to address” the question. For such a vote to occur, the proposed amendment to the constituent districts “must proceed pursuant to 16 VSA Section 721 (addition of new member town) or section 724 (withdrawal of member town in year two or after.”

“The potential for disparate treatment between similarly situated towns – i.e., towns that voluntarily merged may withdraw by vote while those mandated or forced to merge may not withdraw – supports the conclusion that a voter-approved withdrawal in a forced merger district should be legally valid.”

Once again, we respectfully ask that you place the Stowe withdrawal from the Lamoille South Unified Union School District on your February 16, 2021 agenda and approve it.

Thank you very much for your serious consideration of our request. Please feel free to contact us if you have any questions.

Sincerely,

Rep, Heidi Scheuermann
Stowe

Sen. Richard Westman
Lamoille County

Rep. David Yacovone
Elmore, Morristown Worcester,
Woodbury

Rep. Avram Patt
Elmore, Morristown, Worcester
Woodbury