

PREPAREDNESS STATEMENT:

RIPTON SCHOOL DISTRICT

**Vermont State Board of Education
Act 176 (2022), Section 4
August 12, 2022**

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**PREPAREDNESS STATEMENT of the VERMONT STATE BOARD OF EDUCATION
regarding THE RIPTON SCHOOL DISTRICT**

**Issued pursuant to Act 176 (2022), Sec. 4
August 12, 2022**

EXECUTIVE SUMMARY

Act 176 (2022) permitted the Ripton School District (RSD) board to determine whether to assume full responsibility for the education of its students on the previously established operational date of July 1, 2023, or instead to postpone that date by one year. On June 15, 2022, the RSD board notified the State Board of Education (SBE) that it had unanimously approved proceeding with an operational date of July 1, 2023.

As a result of the RSD board's decision, Act 176 directed the SBE to evaluate RSD's preparedness to assume responsibility to educate its students as a supervisory district starting on July 1, 2023. This law required the RSD board to submit a status report to the SBE on or before July 20, 2022 describing *"the actions the district has taken and will take to ensure that, as of its operational date, the district will be prepared to assume sole responsibility for the education of its students in prekindergarten through grade 12."*

Between July 20 and August 3, an SBE subcommittee reviewed the status report and took testimony on RSD's preparedness from all persons identified by the RSD board, including persons who provided expertise and consultancy to the process, as well as from Agency of Education staff and external experts identified by the SBE. The purpose of the review and testimony was to determine whether RSD had made sufficient progress and had plans in place to meet the state and federal regulations required of school districts and supervisory districts, including ensuring students' civil rights and meeting the district's fiduciary responsibilities.

In its status report and testimony provided to the SBE subcommittee, the RSD board indicated that it did not have the capacity to develop and operate a stand-alone supervisory district (e.g., Ripton Status Report, p. 5). Instead, the RSD board suggested an alternative structure, with RSD becoming a member of a yet-to-be established supervisory union (the proposed "Mountain Supervisory Union") with the Lincoln School District (LSD).

The SBE evaluated whether on July 1, 2023 RSD will be prepared to operate as:

1. A stand-alone supervisory district (the configuration under which Act 176 directed the SBE to evaluate RSD's preparedness); or
2. A school district within a yet-to-be established supervisory union; or
3. A school district that is a member of an existing supervisory union.

The SBE subcommittee found that the RSD board and other volunteers in the community demonstrated passion and commitment towards their goal of maintaining a local elementary school in their community. In spite of this enthusiasm and dedicated effort, the SBE was not

able to overlook the significant challenges with RSD's preparedness to operationalize their aspirations.

Charged with determining whether there was a "reasonable risk" that RSD would not be prepared, the SBE in fact concluded that there is an overwhelming risk that RSD will not be prepared to assume responsibility for the education of its students on July 1, 2023 in any of the three aforementioned configurations, based on the following key findings:

1. RSD does not have the financial capacity and structure in place to prepare to transition to full operations on July 1, 2023 in a manner that will meet the needs of all students under any of the three configurations.
2. Even if RSD obtains transitional funding, the RSD board has been largely unable to identify qualified persons with Vermont-specific experience in public education systems to inform and guide its transition planning.
3. There is insufficient evidence to demonstrate that the RSD board currently has a plan in place to operate a viable school district, supervisory district, or supervisory union by July 1, 2023 – or a plan for how to develop a plan.
4. The RSD board and its status report do not demonstrate an understanding that operating a school district, a supervisory union, or both occurs in a highly regulated context, requiring substantial technical expertise to ensure that the civil rights and educational needs of all students are protected and that fiduciary obligations are met.
5. The governance conditions under which the Ripton community decided to withdraw from the Addison Central School District ("ACSD") have changed with recent changes to membership on the ACSD board.

The SBE commends the board and community members for their efforts and commitment to their local community school. The SBE recognizes that Ripton only pursued withdrawal to protect their small school from the perceived risk of closure under the management of a larger district. However, by choosing to withdraw from an existing school district, RSD assumed not only the task of operating an elementary school, but a much larger set of obligations that are typically managed by a cross-functional team of professionals who support many students within a larger system of governance (while supporting both large and small schools) at scale. Again, this is true regardless of whether RSD operates as its own single-district supervisory union, creates a new supervisory union with one or more other districts, or is assigned to an existing supervisory union. Further, the SBE finds that the weight of these obligations would pose an even greater threat to the continued viability of Ripton's elementary school.

Next Steps

Because the SBE has determined that there is a "reasonable risk" that RSD will not be prepared to assume responsibility for its students on July 1, 2023 regardless of whether the district is part of a new or existing supervisory union or provides its own supervisory union services, the State Board will post its written advisory statement on its website and transmit the statement electronically to the RSD board as required by Act 176, subdivision 4(d)(3).

Subdivision 4(d)(3) identifies the subsequent required and optional activities as follows:

1. "Upon receipt" of the advisory statement, the RSD board is required:
 - a. To post the advisory statement on its website.
 - b. To "schedule the contents as a topic for public discussion at a special or regular board meeting."
2. After the public discussion and any RSD board deliberations, the RSD board either:
 - a. Continues to take all actions necessary to prepare for the realignment of duties on July 1, 2023.
OR
 - b. Publishes a warning for the RSD voters to vote by Australian ballot – **no later than September 30, 2022** – to request the SBE to reverse its earlier declarations creating a separate Ripton School District¹, resulting in Ripton again being a town within (referred to informally as a "member" of) the ACSD without the need for the current towns within the ACSD to ratify Ripton's inclusion as would otherwise be required by 16 V.S.A. § 721.

The RSD board would be required to warn this vote if either of the following occurs:

- i. The RSD board votes in favor of presenting the question to the voters.
OR
- ii. At least **five percent (5%) of the Ripton School District voters** submit a petition to the RSD board that is substantively similar to the following, which is based on the sample provided on the Vermont Secretary of State's website:

Pursuant to the provisions of Act 176 (2022), Sec. 4, we the undersigned legal voters of the Ripton School District hereby petition the Ripton School Board to add the following article to a warning for a special school district meeting to be held **no later than September 30, 2022**, which shall be decided by Australian ballot:

Shall the Ripton School District request the State Board to reverse its earlier declarations creating a separate Ripton School District, which shall result in Ripton again being a town within (i.e. a "member" of) the Addison Central School District ("ACSD") without the need for the current towns within the ACSD to ratify Ripton's inclusion as would otherwise be required by 16 V.S.A. § 721, pursuant to the provisions of Act 176 (2022), Sec. 4?

¹ Because Act 176 requires that a vote must occur before October 1, and because Vermont law requires the RSD board to publish a warning at least 30 days in advance of a vote, the RSD board would need to publish a warning in this instance no later than August 31.

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I. PROCEDURAL BACKGROUND

Process leading to the State Board's approval of Ripton's withdrawal from the ACSD & the Board's reconstitution of the Ripton School District, both fully effective July 1, 2023

On March 1, 2016, school district voters residing in Bridport, Cornwall, Middlebury, Ripton, Salisbury, Shoreham, and Weybridge approved creation of a new unified union school district, now known as the Addison Central School District ("ACSD"). The ACSD became fully responsible for the education of all students, PreK-12, on July 1, 2017.

On January 12, 2021, ACSD voters residing in Ripton voted to withdraw from the ACSD pursuant to the terms of 16 V.S.A. § 724 then in effect ("Former § 724"). On March 2, 2021, the voters residing in each of the other six towns within the ACSD ratified the petition to withdraw under the Former § 724.

The State Board received testimony from the self-selected representatives of Ripton and from the ACSD at its April 21, 2021 and May 19, 2021 meetings. In order to enable the withdrawal action to proceed despite the deficient process outlined in the Former § 724, the State Board took the following actions at its May meeting:

1. The State Board approved the Withdrawal of Ripton and the Reconstitution of the Ripton School District ("RSD"), conditioned as follows:
 - a. The RSD was reconstituted as a school district on May 19, 2021 and would assume sole responsibility for the education of its resident PreK-12 students on July 1, 2022.
 - b. Until July 1, 2022, the ACSD would be responsible for the education of students residing in Ripton.
 - c. Between May 19, 2021 and July 1, 2022, the RSD would exist for the purpose of meeting each of the following conditions:
 - i. RSD voters would elect board members to serve the RSD.
 - ii. The RSD board and the ACSD board would negotiate the financial terms of withdrawal as required by the Former § 724.
 - iii. The voters of each of the other six towns within the ACSD would vote to approve the negotiated terms of the agreement.
 - iv. The RSD board would notify the State Board no later than September 8, 2021 of the results of the activity in (i)-(iii) above.
 - v. Members of representatives of the RSD and the ACSD boards appeared at the State Board's September 15, 2021 meeting.

2. The State Board approved continuation of the ACSD, despite the withdrawal of Ripton
3. The State Board notified the interested parties that, at its September 15, 2021 meeting, the Board would consider, and take testimony regarding, supervisory union (“SU”) boundaries in the region and the provision of SU services to the RSD.

The RSD voters elected three members to sit on the RSD school board on June 30, 2021.

By memorandum dated August 24, 2021, the Secretary complied with the State Board’s request for a recommendation regarding SU boundaries and services, concluding in part:

It may be most prudent to designate the RSD – and any other withdrawing town – as its own SD [(i.e., a single-district SU)] for at least the next few years in case other changes in the region necessitate either the need for a new multi-district SU or some other configuration that cannot yet be contemplated with any specificity.

By letter dated September 8, 2021, the RSD board complied with condition (1)(iv) above and responded to the Secretary’s recommendation. The RSD board recommended that the ACSD provide SU services, with the possibility that RSD “could eventually collaborate as a member of a new SU that includes other independent districts. In an addendum to the letter dated September 13, 2021, the RSD board stated in part: “If the State Board cannot come to an agreement that supports Ripton’s assignment to a larger supervisory structure--which of course is still our first choice--we ask that you consider changing the date of your decision so that [the operational date] reads *July 1, 2023*, instead of *July 1, 2022*.” The ACSD, the Rutland Northeast SU, and the White River Valley SU also submitted written responses to the Secretary’s recommendation, expressing opposition to assuming Ripton as a member district within their respective Supervisory Unions.

At its September 15, 2021 meeting, the State Board took testimony from the interested parties and discussed the Secretary’s recommendation and the responses of the interested parties. The SBE Chair:

proposed that the SBE express intent to designate Ripton as a supervisory district with all the responsibilities, but that no formal action be taken and, further, that the SBE encourage Ripton and ACSD to come together with the direction to find a way to bring Ripton back into ACSD and keep it whole as a supervisory district, incorporating Ripton and that the parties report back to the SBE in November or December [2021].²

The parties concurred with the State Board’s decision to postpone Board action until its November meeting and to provide a status update by November 5, 2021.

By letter dated October 11, 2021, the RSD board informed the State Board that its conversation with the ACSD board “while cordial and friendly, wasn’t very productive.” The RSD board

² September 15, 2021 State Board meeting minutes.

sought clarification and guidance from the State Board. The State Board discussed the issues at the October 20, 2021 meeting, during which:

Chair Olsen said it is the responsibility of the withdrawing entity to have a plan in place before moving forward and to understand the consequences of withdrawing. It is not the State Board's responsibility to solve the problems as they arise. Chair Olsen will draft a response that will reinforce that the State Board is not going to be supportive of any plan that negatively impacts other districts with the consequences of a decision made by a withdrawing entity.³

In his October 31, 2021 response to the October 11 letter and other inquiries from the RSD board, Chair Olsen granted the RSD board's request for an extension of time to report back to the State Board regarding the progress of discussions with ACSD. The Chair requested that both boards provide an update to the State Board at its January 19, 2022 meeting.

On January 19, 2022, after testimony and discussion, the State Board unanimously approved a motion:

1. Finding that the conditions of the State Board's May 19 conditional order had been met.
2. Approving, without conditions, Ripton's withdrawal from the ACSD and reconstitution as an independent Ripton School District, to be fully effective on July 1, 2023.
3. Designating the RSD as its own supervisory district (i.e., a single-district SU), to be fully effective on July 1, 2023.

Process resulting from enactment of Act 176 of 2022

The Governor signed Act 176 (H. 727) into law on June 7, 2022, and it went into effect on that day. Section 2 of Act 176 repealed the former 16 V.S.A. Chapter 11, including the Former § 724. Section 3 of Act 176 enacted a new Chapter 11, including a new 16 V.S.A. § 724 ("New § 724") to replace the Former § 724.

In response to testimony and requests from the RSD board and others that the terms of the New § 724 should not apply to any withdrawal action initiated prior to the effective date of Act 176, the Legislature enacted several sections of "session law," including Section 4, which specifically applies to the factual circumstances of the RSD.

Subsection 4(b) permitted the RSD board to determine whether to proceed with the established operational date of July 1, 2023 or to postpone that date by one year. On June 15, 2022, the RSD board notified the State Board that it had unanimously approved proceeding with an operational date of July 1, 2023.

Subsection 4(c) required the RSD board to submit a written status report no later than the State Board's regular July meeting:

³ October 20, 2021 State Board meeting minutes, as amended at the November 17, 2021 meeting, Item C.

detailing the actions the district has taken and will take to ensure that, as of its operational date, the district will be prepared to assume sole responsibility for the education of its students in prekindergarten through grade 12 in a manner that will meet educational quality standards as required by 16 V.S.A. § 165 and to ensure the provision of supervisory union services. The status report shall include a timeline indicating the date by which each action will be complete.

Subdivision 4(d)(1) of Act 176 required the State Board to consider the RSD status report and to provide the RSD board an opportunity to be heard. In addition, the subdivision authorized the State Board to take testimony from “other individuals and entities, including the [ACSD] and the Agency of Education.” Finally, subdivision 4(d)(1) required that prior to September 1, 2022 the State Board would issue a determination regarding the likelihood of the RSD’s preparedness.⁴

At its June 15, 2022 meeting, the State Board established a subcommittee to review the RSD status report required by Sec. 4(c), to consult with members of the RSD board and other individuals and entities, and to prepare a proposed determination of preparedness to be considered and voted on by the full Board at its August meeting (the “Subcommittee”). The State Board members serving on the Subcommittee are: Oliver Olsen (Chair), Kim Gleason, Lyle Jepson, Tammy Kolbe, and Jenna O’Farrell.

The RSD board submitted its written status report on July 20, 2022.

The Subcommittee met in open session on seven occasions. There was an opportunity for the public to be heard at each meeting. Formal minutes were taken and publicly posted on the State Board’s webpage. The Subcommittee met on the following dates:

- June 24, 2022 – Organization meeting
- July 22, 2022 –
 - Testimony presented by and on behalf of the RSD board, regarding the board’s status report:
 - Members of the RSD board
 - Dylan Patrick, principal author of the status report
 - Jeff Valence, consultant with experience in NH school systems
 - Brittany Gilman, RSD financial consultant with experience as a business manager in Vermont school systems
 - (Community members with a range of experience offered written comment and/or oral testimony over the course of the subcommittee hearings to advocate for the Ripton Elementary School, but have not been directly involved in the planning and preparation of the RSD transition)

⁴ Subdivision 4(d)(3) provides a detailed process by which the RSD can choose to re-join the ACSD if the State Board determines that there is a “reasonable risk” that the district will not be prepared. See “Next Steps” in the Executive Summary for an overview.

- Public to be Heard: Molly Witters and Joanna Doria, RSD board members
- July 27, 2022 –
 - Testimony from:
 - Erin Maguire; Director of Equity & Inclusion / Co-Director of Student Support Services, Essex-Westford School District
 - Emily Simmons, General Counsel, Agency of Education
 - Steve Cash, Chair, RSD board
 - Public to be Heard: None
- July 29, 2022 –
 - Testimony from:
 - Jay Nichols, Executive Director, Vermont Principals' Association (written testimony)
 - Bill Anton, Superintendent, Windham Central Supervisory Union
 - Ron Ryan, AOE Program Manager for Licensing, Agency of Education
 - Betty Roy, Education Programs Coordinator, Agency of Education
 - Steve Cash, Chair, RSD board
 - Public to be Heard: Molly Witters and Jane Phinney, RSD board members
- August 2, 2022 –
 - Testimony from:
 - Brittany Gilman, RSD financial consultant with experience as a business manager in Vermont school systems
 - Jennifer Oldham, Chair, Lincoln School District board
 - Jane Phinney, RSD board member (written testimony)
 - Steve Cash, Chair, RSD board
 - Public to be Heard: None
- August 3, 2022 – Subcommittee discussion of materials and testimony received
 - Public to be Heard: None
- August 10, 2022 – Subcommittee review and discussion of draft Advisory Opinion prepared by Chair Oliver Olsen and Board Member Tammy Kolbe
 - Public to be heard:

The State Board convened on August 12, 2022 to consider the draft determination of preparedness recommended by the Subcommittee. The State Board voted to

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II. AUTHORITY & REQUIREMENTS FOR STATE BOARD ACTION

Subdivisions 4(d)(2) and (3) of Act 176 required the State Board, based upon its consideration of the status report, to determine whether it was:

likely that the [RSD would] be prepared, on [July 1, 2023], to assume full responsibility for the education of its resident students in a manner that substantially complies with educational quality standards as required by 16 V.S.A. § 165, and to ensure the provision of supervisory union services[,]

or – conversely – whether there was “a reasonable risk” that the RSD would “not be able to be prepared” to do so on July 1, 2023.

If the State Board determined that preparedness was likely, then subdivision 4(d)(2) stated that the RSD, the ACSD, and, “if applicable, the supervisory union or unions shall continue to take all actions necessary to prepare for the realignment of duties on the operational date.”

If the State Board determined that there was “a reasonable risk” that the RSD would “not be able to be prepared,” then subdivision 4(d)(3)(A) required the State Board to “issue a written advisory statement detailing the factors underlying its conclusion, which [it was required to] post on its website and transmit electronically to” the RSD board.

III. FINDINGS

The State Board evaluated whether on July 1, 2023 the Ripton School District will be prepared to operate as:

1. A stand-alone supervisory district (the configuration under which Act 176 directed the SBE to evaluate RSD’s preparedness); or
2. A school district within a yet-to-be established supervisory union; or
3. A school district that is a member of an existing supervisory union.

Based upon the documents and testimony received, the State Board made the following key findings:

Finding #1: RSD does not have the financial capacity and structure in place to prepare to transition to full operations on July 1, 2023 in a manner that will meet the needs of all students under any of the three configurations.

For example:

1. The Ripton School District was created in May 2021 and its voters elected a school board in June 2021. Nevertheless, during the intervening 13 months, the RSD board has not presented a proposed budget for transition activities to the voters for approval, and the voters have not authorized the RSD board to expend funds or to borrow money to support the phase 1 and phase 2 transition activities the RSD board has identified.
2. The RSD board has been unable to confirm a source of funding to pay for any of the transition work. In addition, the status report contemplates some sources of funding that are not feasible (e.g. an appropriation from the Legislature between now and the start of the next biennium in January 2023).
3. State law prohibits the use of town funds for school district purposes.
4. Although state law permits a school district to borrow funds from the town in which it is located, all funds must be repaid within 90 days.
5. There is no existing supervisory union in the region that is willing to assume supervisory union responsibilities for RSD.

Finding #2: Even if RSD obtains transitional funding, the RSD board has been largely unable to identify qualified persons with Vermont-specific experience in public education systems to inform and guide its transition planning.

For example:

1. The RSD board has not hired any administrative personnel to prepare for the July 1, 2023 operational date and lead the new school district and/or supervisory union after assuming full operations.
2. The RSD status report lacks evidence that it was prepared by, or was based upon information provided by, persons with Vermont-specific expertise in the design and delivery of public education at the school district or supervisory union level.
3. With the exception of its financial consultant, who did not participate in creating a budget for transitional activities, the paid consultants hired by the RSD board lack Vermont-specific experience and expertise in the design and delivery of public education at the school district or supervisory union level.
4. The RSD board stated – in the status report and through testimony – that it had difficulty finding professionals with relevant experience to assist with planning and preparation efforts.
5. The volunteer consultants whose testimony was offered by the RSD board indicated that they were not directly involved in the implementation work.
6. The RSD status report is aspirational rather than practical, as was required by Act 176. For example, RSD expresses the intent to have a multi-tiered system of support (MTSS) but does not have plans for its MTSS – or even a plan for how it is going to plan the development and implementation of an MTSS. The RSD cannot conduct meaningful budget preparation discussions for its first year of operations until it has operationalized its aspirations in detail.

Finding #3: There is insufficient evidence to demonstrate that the RSD board currently has a plan in place to operate a viable school district, supervisory district, or supervisory union by July 1, 2023 – or a plan for how to develop a plan.

For example:

1. The RSD has not developed an organizational chart or identified the roles and responsibilities, and the related FTE requirements, of the potential administrators and educational staff needed to operate a school district or a supervisory union.
2. The RSD has not developed a plan, or a plan for a plan, to provide for the delivery of early childhood education as required by law.
3. The RSD has not developed a plan, or a plan for a plan, to provide for curriculum and professional development, including professional development to address changing legal requirements for special education services.
4. A comprehensive facilities report outlined substantial deferred maintenance issues, but the costs have not been acknowledged in the budget submitted with the status report. In

addition, no capital or other reserve funds have been included in the proposed budget and there is no provision by which ACSD would transfer any reserve funds to RSD.

5. There is no contingency plan for unanticipated special education costs.
6. There is no acknowledgement that legislative changes affecting the small schools grant program mean that RSD cannot continue to rely upon the grant as a revenue source.
7. Paying tuition for students in middle and high school creates budgetary uncertainty for which the RSD has not planned. Other town school districts in the state have frozen or decreased elementary school expenditures to address unexpected increases in tuitioning costs for high school students.
8. The RSD board has indicated that it would need another 30 to 60 days to develop a “plan to plan” for the creation of a school district or a new supervisory union.

Finding #4: The RSD board and its status report do not demonstrate an understanding that operating a school district, a supervisory union, or both occurs in a highly regulated context, requiring substantial technical expertise to ensure that the civil rights and educational needs of all students are protected and that fiduciary obligations are met.

For example:

1. There are no policies and procedures, or plans to develop policies and procedures, necessary for, e.g., Medicaid billing, federal grant writing and reporting, and special education grievances and appeals.
2. There is no outline, or plans to develop an outline, of the array of special education services that may be needed and of the options for providing those services, other than by virtual support services. (Using virtual services to provide special education services may be considered a denial of the federally required “free and appropriate education” for those students.)
3. There are no plans, or plans to develop plans, for sufficient professional staff time, and the related funding, to ensure that special education services are provided to middle and high school students for whom the district will pay tuition.
4. With a reliance on part-time and contractual employees, it is unclear where the RSD can obtain additional staff support to address specific projects and timelines, or the funding that will be necessary for that additional support.
5. The RSD board is unsure whether any of the ACSD teachers currently working in Ripton intend to seek employment with RSD.
6. It is not unlikely that staff with seniority in the ACSD system will not wish to lose the stability inherent in that seniority and that would be lost by accepting employment in a small school district that may need to reduce staffing in future years.
7. There is a statewide shortage of qualified candidates licensed in certain specialized areas, such as ELL and OT/PT.
8. Wages, competing incentives, proximity to bordering states, geography, and lack of interest in teaching under current conditions have all created an increasing shortage of qualified persons to fill vacancies. For example, a district currently may receive only 5-10

applications for an open elementary position, with only two or three demonstrating appropriate licensure, where once it would have received 50-100.

9. Hiring and retaining part-time staff is historically difficult. Small school districts often combine two vacant part-time positions to attract a full-time applicant, which requires the educator to hold two different licenses. The second often is a provisional license, which carries with it a financial and time commitment on the part of the applicant to complete coursework necessary to obtain the license.

Finding #5: The governance conditions under which the Ripton community decided to withdraw from ACSD have changed with recent changes to membership on the ACSD school board.

IV. CONCLUSION

Based on a comprehensive review of available evidence, the State Board finds that there is overwhelming risk that the Ripton School District will not be prepared to assume full responsibility for the education of its students on July 1, 2023 as an independent school district in any supervisory union / supervisory district configuration.