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## **Act 46, Sec. 9**

# **Self-Evaluation, Regional Conversations, and Proposals for “Alternative Structures”**

### **Background / Overview:**

Act 46, Sec. 2 (2015) identifies five educational and fiscal goals<sup>1</sup> as the foundation underlying the Act’s provisions relating to voluntary mergers, Sec. 9 “alternative structure” proposals, and the State Board of Education’s Statewide Plan.

The Legislature determined that a school district is most able to meet the five goals in a sustainable manner (the “preferred structure”) if it:

- is *responsible* for the education of its resident students in prekindergarten through grade 12
- is its own supervisory district (*i.e.*, a single-district supervisory union) (“SD”)
- has an ADM of at least 900 students
- is organized and operates according to one of the four most common operating/tuitioning structures

(Act 46, Sec. 5(b))

The Legislature acknowledged that the “preferred structure” may not be “possible or the best model” to achieve the five goals in every region of the State. In these situations, it stated that a multi-district SU can meet the Goals, “particularly if” the SU manifests specific characteristics, including having “the smallest number of member school districts practicable” (an “alternative structure”).<sup>2</sup>

The Legislature requires each school district that will not have merged into a “preferred structure” by July 1, 2019 to: self-evaluate; have regional discussions; and propose steps to improve its ability to meet and exceed the five goals.

The Secretary and State Board of Education refer to the proposals from these districts– as well as to conversations with and testimony of the school boards that submit them – when creating the proposed and final Statewide Plan that merges districts “to the extent necessary” to create sustainable governance structures capable of meeting or exceeding the goals.<sup>3</sup>

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<sup>1</sup> See Appendix A.

<sup>2</sup> The State Board’s 3400 rules (proposed in Aug. 2016 / finalized in June 2017) determined that this means that, to the full extent current *governance structures* permit, districts merge into (i) a UUSD, (ii) a UESD, or (iii) a UHSD. The 2017 Legislature did not alter the State Board’s interpretation.

<sup>3</sup> Act 46, as amended by Act 49 (2017), prohibits the State Board from requiring merger of a newly merged PK-12 district eligible for tax rate reductions; an interstate school district; a Regional CTE district; and a pre-existing SD (*e.g.*, Burlington, Montpelier) with an ADM of at least 900.

## **Who:**

The *school board* of any district that will not be a supervisory district (a single-district SU) with an ADM of at least 900 on or before July 1, 2019.<sup>4</sup>

### **Note:**

- ✓ *Although Sec. 9 requires the school board to perform the three tasks identified below, some or all of the information-gathering and analysis may be conducted by a study committee that was formed pursuant to 16 V.S.A. chapter 11 to consider creation of a new unified union school district under that chapter.*

## **What:**

Act 46, Sec. 9(a) requires the *school board* to:

- (1) “**evaluate** [the district’s] current ability to meet or exceed each of the” Goals;

### **Note:**

- ✓ *This is the same rigorous self-examination conducted by districts considering merger. E.g., What are the district’s current strengths and weaknesses? How can the strengths be supported and the weaknesses addressed? Assuming that it is impossible to have everything, what matters most to the community?*

- (2) “**meet** with the boards of one or more other districts ... to discuss ways to promote improvement throughout the region in connection with the” Goals; and

### **Note:**

- ✓ *Districts do not need to be contiguous and do not need to be within the same supervisory union.*
- ✓ *These are the same conversations that districts have when discussing merger – how can working together in some way benefit all of us?*

- (3) **submit “a proposal”** to the Secretary and State Board of Education that proposes:

- “to retain its current governance structure,” or
- “to work with other districts to form a different governance structure,” or
- “to enter into another model of joint activity.”

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<sup>4</sup> State Board Rules 3400+ provides that any district eligible for tax rate reductions, etc. that is not its own SD (e.g., districts in “Side-by-Side” mergers) fulfilled the requirements of Act 46, Sec. 9 when it submitted its merger proposal.

**Each proposal shall:**

- “demonstrate[] ... how the proposal ... supports the district’s or districts’ ability to meet or exceed each of the” Goals through:
  - “reference to enrollment projections,”
  - “student-to-staff ratios,”
  - “the comprehensive data collected pursuant to 16 V.S.A. § 165,” and
  - “otherwise;”
- “identif[y] detailed actions it proposes to take to continue to improve its performance in connection with each of the” Goals.

**Note:**

- ✓ *A school board submits its proposal individually or jointly with boards of other districts.*
- ✓ *Districts do not need to be contiguous and do not need to be within the same supervisory union.*
- ✓ *A school board can submit a proposal that is at odds with the proposal submitted by the school board of another district. Proposal should reflect what that school board has determined to be the best way forward.*

**Overall Notes to Three Tasks in Sec. 9:**

- ✓ *The State Board’s 3400 Rules include a non-exclusive list of information, which is the foundation both of a study committee’s proposal to create a UUUSD and a school board’s work under Sec. 9 (see Rules 3450.5 – 3450.18 beginning on page 8): [link to final approved 3400 Rules](#)*
- ✓ *Data that will assist in all three tasks required by Sec 9 can be found in spreadsheets and data sets located on the Agency’s School Governance / Guidance webpage: [link to data sets and spreadsheets](#)*

**When:**

School boards must submit Sec. 9 proposals by December 26, 2017.<sup>5</sup>

**Post-Submission Details:**

Beginning on October 1, 2017, the Secretary and State Board of Education will begin to review any Sec. 9 proposal submitted prior to the December 26 deadline. The Secretary and Board are not required to make a decision or otherwise take action in connection with that early review. (*Act 49, Sec. 8 (2017)*)

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<sup>5</sup> Act 49 (2017) extended the deadline for submitting proposals under Sec 9 to the *earlier* of January 31, 2018 or 6 months after the SBE 3400 Rules were final (June 26, 2017).

Before June 1, 2018, the Secretary will:

- “consider[.]” each Sec. 9 proposal when developing the proposed Statewide Plan;
- have “conversations” with the districts that submitted a Sec. 9 proposal and other districts;
- accept additional data and analysis offered by a district in response to the Secretary’s questions or stated concerns;
- issue a *proposed* Statewide Plan.

(Act 46, Sec. 10(a)(1))

Between June 1, 2018 and November 30, 2018, the State Board:

- shall “review and analyze” the Secretary’s proposed Statewide Plan;
- may take testimony and/or request additional information from districts and supervisory unions as the Board determines to be appropriate or necessary; and
- shall “publish ... its order merging and realigning districts and supervisory unions where necessary” either:
  - by approving the Secretary’s proposed Statewide Plan in its original form; or
  - by approving the Secretary’s proposed Statewide Plan in an amended form under the same standards required for the Secretary’s proposal.

(Act 46, Sec. 10(b))

## **The Statewide Plan:**

The purpose of the Statewide Plan is to “provide educational opportunities through sustainable governance structures designed to meet the” goals of Act 46. (Act 46, Sec. 10(a))

The Statewide Plan:

- shall include changes to the extent necessary to meet the Goals
- shall include changes to the extent “possible and practicable” in the Region
- shall not include a change that would require a district to change the current grades it operates or tuitions
- shall not change the governance structure of certain districts (see footnote #3).

(Act 46, Secs.8 and 10)

“If it is not possible or practicable [for the Statewide Plan to merge districts], where necessary, ... in a manner that adheres to the ... protection for tuition-paying and operating districts[.] or that otherwise meets all aspects of [Act 46,] Sec. 5(b), then the [Plan] may also include alternative governance structures as necessary, such as a supervisory union with member districts or a unified union school district with a smaller average daily membership.” (Act 46, Sec. 8(b))

The “State Board shall approve the creation, expansion, or continuation of a supervisory union only if the Board concludes that this alternative structure:

- (1) is the *best* means of meeting the [Goals] in a particular region; and
- (2) ensures transparency and accountability for the member districts and the public at large ... .”

(Act 46, Sec. 8(b))

## Appendix A

### Five Educational and Fiscal Goals of Act 46

Act 46, Sec. 2 (2015) identified five educational and fiscal goals as the foundation of each of the Act's governance provisions relating to voluntary mergers, proposals made under Sec. 9, and the State Board's Statewide Plan:

[In order] to move the State towards sustainable models of education governance, [Act 46 was] designed to encourage and support local decisions and actions that:

- (1) provide substantial equity in the quality and variety of educational opportunities statewide;
- (2) lead students to achieve or exceed the State's Education Quality Standards, adopted as rules by the State Board of Education at the direction of the General Assembly;
- (3) maximize operational efficiencies through increased flexibility to manage, share, and transfer resources, with a goal of increasing the district-level ratio of students to full-time equivalent staff;
- (4) promote transparency and accountability; and
- (5) are delivered at a cost that parents, voters, and taxpayers value.