



STATE OF VERMONT
HOUSE OF REPRESENTATIVES

December 20, 2016

The Honorable Rebecca Holcombe
Secretary, VT Agency of Education
Mr. Stephan Morse
Chair, VT State Board of Education
219 North Main Street, Suite 402
Barre, Vermont 05679

Dear Secretary Holcombe and Chairman Morse,

I am writing today to provide Public Comment on the Proposed Rules (3400) that would govern the development of "Alternative Structures" under Act 46. Specifically, I have very serious concerns about the rules as they are being proposed, as I believe they are in conflict with what the legislative intent was in establishing the ability for districts to enter into an "Alternative Structure" under Act 46.

In fact, these rules make it virtually impossible for any district to be approved as an "Alternative Structure" other than through geographic isolation. I would go so far as to say that even if two districts have the required 1100 or more Average Daily Membership and meet the goals as established in Section 2 of Act 46, they would not be approved as an Alternative Structure under the rules as currently drafted.

Proposed Rule 3440.3 – A proposal for an Alternative Structure shall ...

3) Demonstrate that:

- A) A Preferred Structure is not "possible" or is not "the best model" to achieve the Goals in the Region [Stated in another way, that a Preferred Structure is not possible or practicable in the Region.]***
- B) The Proposal is the "best means" of meeting each of the Goals in the Region***
- C) The Proposal ensures transparency and accountability for the member districts of the supervisory union and the public at large.***

This is a complete overreach of rulemaking authority. Nowhere in Act 46 does it state that an Alternative Structure proposal is dependent upon a demonstration that a Preferred Structure is not "possible" or is not the "best model." In fact, Act 46 makes clear in Section 5(c) that an Alternative Structure is an option for districts as long as the following is met:

"1) the member districts consider themselves to be collectively responsible for the education of all prekindergarten through grade 12 students residing in the supervisory union;

2) the supervisory union operates in a manner that maximizes efficiencies through economies of scale and the flexible management, transfer, and sharing of nonfinancial resources among the member districts;

3) the supervisory union has the smallest number of member school districts practicable, achieved wherever possible by the merger of districts with similar operating and tuitioning patterns; and

4) the combined average daily membership of all member districts is not less than 1,100.”

To reiterate, nowhere in the legislation is there a requirement that a district demonstrate that a Preferred Structure is not “possible” or is not the “best model,” so the Proposed Rule is an overreach of rulemaking authority.

Proposed Rule 3430.4 – A Preferred Structure may not be “possible or the best model” to achieve the Goals throughout the State. [Act 46, Sec. 5(c)]. This acknowledges that local anomalies of demography and geography make Preferred Structures difficult to achieve in some locations.

Again, the Vermont Legislature made clear in Section 5 of Act 46 that Alternative Structures would be allowed. In fact, the law specifically states: “An Education District as envisioned in subsection (b) of this section may not be possible or the best model to achieve Vermont’s education goals in all regions of the State.”

But, in the Proposed Rules, you jump far ahead of this statute in limiting the instances in which the Preferred Structure “may not be possible or the best model.” Rule 3430.4 declares that: “This acknowledges that local anomalies of demography and geography make Preferred Structures difficult to achieve in some locations.”

While demography and geography were some of the reasons the Legislature wanted to ensure the Alternative Structure option, they were not the only reasons. And it is simply inaccurate to imply that that was an exhaustive list.

Proposed Rule 3430.8 – The final Statewide Plan shall incorporate a proposal for an Alternative Structure only if the Proposing District or Districts demonstrate that the proposal “is the best means of meeting the (Goals) in a particular region; and ...ensures transparency and accountability.” [Act 46, Sec. 8(b)]

Note that throughout the text of Act 46, the Legislature talks about and refers to “particular region(s).” And, note that through the Proposed Rules, the draft refers to these same items as simply “Region(s).”

While some may consider this semantics, the distinction is absolutely critical. In fact, I believe the change is designed to broaden the term to ensure greater subjectivity for the State Board of Education when considering the approval of Alternative Structures.

Specifically, in Proposed Rule 3410.8, it states: “Region” is not defined by current supervisory union boundaries, but should be identified based on a common-sense view of districts in and outside the current supervisory union.”

Simply put, this is far too subjective for a district to depend on when proposing an Alternative Structure.

Proposed Rule 3430.9 – A proposal by one or more Remaining Districts for an Alternative Structure is the final option, after all other opportunities for merger and collaboration have been considered and determined not to be possible or the best option for meeting the Goals in the Region

Once again, this proposal does not accurately reflect the legislative intent in Act 46. Our intent was to ensure that Alternative Structures were a viable option, and one that local communities could explore and develop, as long as they meet the established goals. Indeed, maybe some in the legislature believe that the one-size fits all approach is the only approach local communities should take, but the intent of the Legislature as a whole was to ensure the option is obtainable for those communities that choose to do so.

Act 46 has outlined clearly its goals in Section 2:

1. *To encourage and support local decisions and actions that:*
 - a. *Provide substantial equity in the quality and variety of educational opportunities statewide;*
 - b. *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*
 - c. *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*
 - d. *Promote transparency and accountability; and*
 - e. *Are delivered at a cost that parents, voters, and taxpayers value.*

As long as the community proposing an Alternative Structure can clearly demonstrate that it will meet those goals, the proposal should be easily approved. The hoops to jump through and bars to jump over as proposed currently seem more like a barrier to the establishment of an Alternative Structure than a roadmap for such establishment.

For all of these reasons, I request that the Proposed Rules 3400 be simplified, and that it be made clear that the underlying issue that will determine the approval of Alternative Structures will be whether or not the Goals outlined in Section 2 of Act 46 will be met.

Sincerely,



Heidi E. Scheuermann
State Representative, Stowe