

To: Senate Education Committee
From: Andrew Pond, chair of MMU and CESU boards
Re: H.39 An act relating to the extension of the deadline of school district mergers...
Date: March 13, 2019

Thank you for the opportunity to testify on the question of extending the deadline for school district mergers required by the State Board of Education. The portion of the statewide plan relevant to our region concludes: "Accordingly, the Secretary believes that the best means of meeting the Act 46 Goals – for both the district individually and for the region – is for the State Board of Education to merge the Huntington Elementary School District and the Mount Mansfield Modified Unified Union School District into a single UUSD by requesting the MUUSD to accept the Huntington District as a full PreK-12 member."

Regional History

- For over 50 years we worked together in CESU with separate elementary districts and a union middle/high school district.
- In the early 2000s, three studies were conducted in Jericho and Underhill that considered the best way to educate elementary students among the three schools (and elementary school districts) in those two towns. While there were no formal studies, other SU wide questions were asked like, "would we be better off educating our fifth grade students in the elementary schools instead of the middle schools?" Changes like this would be nearly impossible to implement with a Supervisory Union governance structure. At that time it would have required seven school districts to simultaneously agree to a major operational change.
- I joined the Smilie (Bolton) board in 2007, and was advised that most school directors had concluded that unified governance was the best way to educate all of our students.
- In 2010, CESU began a Regional Educational District (RED) study. No school boards expressed an opinion on merger. A slim majority of CESU voters favored merger in 2011, but the law required a majority vote in each forming district so there were no governance changes.
- Our second (and quite similar) merger study was conducted in 2014 and 68% of all CESU voters favored merger. Five school boards were in favor of merger while two did not express an opinion. A MUUSD was formed with one Non Member Elementary District (NMED) and as a result CESU was not dissolved.
- Act 46 of 2015 was signed into law at Smilie School in Bolton.
- In 2016 and again in 2018 the HSB presented their voters with the question of merger into MMU, emphatically not taking any position on merger or viable governance.
- HSD did not submit an Act 46, Section 9 proposal.
- November 28, 2018 the State Board issued the statewide plan. The State Board request that we "accept" our NMED has been described as "MMU voting to force HSD to merge."
- December 20, 2018 HSD filed suit for an injunction against MMU as well as the State Board and Agency of Education.

Merger Discussion

Our region has 2,500 students, approximately 3% of the student population of Vermont. Despite MMU being a governance leader, CESU is the only Supervisory Union remaining in Chittenden County. MMU's 2,400 students are unduly disadvantaged by a supervisory union structure that requires the superintendent divide their efforts and attention for a separate district of 100 students.

A large majority of citizens, the MMU Board, the Agency of Education, the State Board of Education, and the Legislature have all concluded that a Unified Union is the best means to achieve educational goals. The Supervisory Union structure hampers student progress because far too much of our educators valuable expertise and time is wasted on navigating complex governance and accounting issues. Those often herculean efforts should instead be focused on student achievement as envisioned by a single board.

The Act 46 pathways to preferred governance structures conclude with the State Board of Education issuing a statewide plan. As VTdigger put it in 2015, "Any school districts that choose to do nothing ... will have to do what the state tells them to do." In 2018 it came to light that Act 46 did not delegate the proper authority to the State Board to merge MUDs (as it did for other governance structures). In the best interests of students, education, efficiency, and transparency the State Board could only "request" these mergers. And "request" means that the voters in a community would be asked to cast ballots that compel a change on a subset of that community. The Legislature can not have intended that citizens vote to enforce the mergers ordered by the Legislature and delegated to the State Board. The Legislature must correct this oversight.

If the Legislature or its' designee are unwilling to effect unification, MMU will be obligated, on behalf of our students and taxpayers, to begin the process to dissolve our Supervisory Union. In order for MMU to best serve our students and taxpayers we must have unified governance. If our NMED is to remain an independent district, they can find a like minded governance partner for Supervisory Union Services.

Deadline Extension Question

The MMU board has not made a decision about the merger request from the State Board of Education. Extending the deadline until after all legal challenges have been resolved is the only way to answer the assertion by the NMED that the legislature cannot delegate its authority to the State Board of Education. In an evolving situation, even making a decision to hold this vote may not be in the best interests of our community.

Huntington School District Motion 2-18-19

1. As we have attempted to do so, we continue to resolve to find an appropriate way to have the legal challenge against MMMUSD dismissed, understanding that the Huntington School District, MMMUSD, the State and Court must all agree to the conditions for dismissal.
2. If the Judge rules for the state on the main legal argument, we resolve to implement transition processes in a timely way, should a vote for forced merger be warned by MMMUSD and pass before July 1, 2019.
3. We resolve to remain partnered with Mount Mansfield into the future, either as (1) a full member of a new unified structure, which would occur as a result of a successful forced merger vote if the Court rules in favor of the state or as a result of a successful voluntary merger vote if the Court rules in favor of Huntington or (2) continue as a non-member elementary school district as we currently exist if both a forced merger vote and voluntary merger vote fail.
4. We resolve to maintain our voluntary stay with the state, which reduces the number of legal filings to the minimum, until such time as MMMUSD warns a forced merger vote, if that occurs before the Judge rules on the main complaint.
5. We resolve to maintain interest in our legal challenge against the state, as the constitutional questions regarding dissolving a school district by force as well as taking property without a vote of the affected municipality, must be ruled on.
6. We resolve to implement any and all decisions by the Court in a timely way.
7. If the Judge rules in favor of the state on the main legal argument, we resolve to follow any new timetable for implementation of forced mergers, that may be set by the legislature, and dependent on the language, as implemented by Mount Mansfield.
8. Should a forced merger vote prior to July 1, 2019 fail, and should a possible voluntary vote for merger be warned and pass between July 1, 2019 and June 30, 2020, the Huntington School District resolves to implement transition processes in an efficient manner prior to merger which would be effective July 1, 2020.
9. We reserve the right to appeal the decision of the Superior Court and commit to a public discussion if filing an appeal becomes a possible consideration.

MOUNT MANSFIELD MODIFIED UNION SCHOOL DISTRICT BOARD MOTION

January 7, 2019

Preamble

The Huntington School District has sued the Mount Mansfield Modified Union School District ("Mount Mansfield"). Among other demands, the suit seeks a permanent injunction against Mount Mansfield preventing any merger of the school districts. In effect, the lawsuit seeks by court order to require Mount Mansfield to permanently maintain its divided governance structure.

Mount Mansfield has always believed it would be in the best interest of the Huntington School District, its students and its taxpayers to join a unified governance structure with Mount Mansfield. That is not, however, the issue we now address. Our concern is with the needs of Mount Mansfield students and taxpayers.

MOUNT MANSFIELD MODIFIED UNION SCHOOL DISTRICT BOARD MOTION (continued)
January 7, 2019

The issue we confront is the effort by the Huntington School District through litigation to force Mount Mansfield to permanently maintain a divided governance structure. All of the evidence documents that the divided governance structure harms Mount Mansfield's students and taxpayers.

- The divided governance structure requires the Superintendent and staff to manage three separate entities—each with their own set of financial reporting and accounting issues—at significant cost.
- The divided governance structure diverts substantial resources from student needs to manage governance issues.
- The Huntington School District has filed suit against Mount Mansfield, imposing significant costs and disruption.
- The divided governance structure has created conflict and diverted Mount Mansfield from focusing on its mission of serving students and taxpayers.

We leave to the Huntington School District the responsibility of making decisions for their students and taxpayers. We reject, however, the proposition that Huntington has the right to dictate governance of the Mount Mansfield District.

Through Act 46 and Act 49, the Vermont Legislature has determined—with good reason—that divided governance harms students and taxpayers. Mount Mansfield has a right to govern itself without the burden of divided governance. Most important, Mount Mansfield has a responsibility to its students and taxpayers to achieve a unified governance structure.

Motion

Based on the foregoing, the Board of the Mount Mansfield Modified Union School District hereby adopts the following:

- 1. Mount Mansfield opposes the lawsuit filed by the Huntington School District and authorizes its legal counsel to take all prudent steps in opposition to that lawsuit.**
- 2. Mount Mansfield authorizes its legal counsel to take all steps allowed under current law so that Mount Mansfield may become a supervisory district under Act 46 and Act 49 with a unified governance structure, regardless of the inclusion of the Huntington School District. This should include the filing of a formal request with the State Board of Education for all approvals required so that Mount Mansfield may have a unified governance structure.**
- 3. The Huntington School District should continue to have the opportunity to merge with the Mount Mansfield Modified School District.**
- 4. Mount Mansfield shall request the support of its representatives in the Vermont Legislature for any legislative changes that would minimize the potential for legal challenge to Mount Mansfield achieving a unified governance structure.**
- 5. Mount Mansfield shall continue in its current governance structure to serve all of its students including grades five through twelve from the Town of Huntington.**