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Testimony on H.39: Senate Education Committee Amendment

Given by:

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The Agency of Education Supports Proceeding with Act 46 Timelines in Current Law

Following the court's ruling of last week and after considering the needs and abilities of the relevant systems, the Agency of Education does not support a delay in the date of operation for union school districts created by the State Board of Education's Final Report and Order under Act 46 sec. 10.

1. The Court's decision to deny the motion for preliminary injunction puts the state in a clearer position for Act 46 implementation than when H.39 passed the House.

The decision denying the motion for preliminary injunction has prompted the Agency to reach out to newly formed union districts with assistance in complying with existing law. (See March 8 guidance, attached). Previously, while it was still unclear whether transitions to full operations would be enjoined by the Court, there was a great deal of uncertainty around all technical assistance the Agency provided to newly formed union districts. Now, along with districts' own legal counsel, we are able to answer districts' questions with more certainty. The major source of uncertainty now is whether the General Assembly will pass a delay, and if so, what form it will take.

2. If the General Assembly enacts a clarification to 16 V.S.A. § 566, newly formed districts, will be well positioned to assume full operations on July 1, 2019.

The single greatest risk to a newly formed union school district is being without a budget on July 1, 2019 due to avoidable or unavoidable delay in the transition to full operations. Currently, all newly formed union districts have enough time to obtain voter approval of a FY2020 budget by June 30, 2019. However, unforeseen circumstances may prevent a district from meeting the June 30 deadline. It would not be fair for a district to be without funds to support its operations for the first year of operations due to what the Agency views as an oversight in current law. A correction to § 566 will greatly alleviate the fear around a July 1, 2019 operational date.

3. The state will benefit most from moving forward with the timelines in current law.

The potential for harm presented by a longer transition period outweighs the potential for benefits. The Agency remains concerned that community members in newly formed union districts do not have complete information about the state of the law and may pursue strategies that delay lawful transition processes. Delay and confusion create more pressure on local officials, who have already been asked to take on tremendous stress and

responsibility in implementing the law. It is unfair to ask public officials to endure hyper-politicized school governance climates for another year, unless a clear benefit to students can be identified. The Agency does not see those benefits to students in delay.

Additionally, the potential for conflict in the role and responsibilities of forming district school boards and initial school boards are concerning to the Agency. While a newly formed district is in the process of transitioning to full operations, whether for three months or one year, there will be tension in the shared or overlapping sources of authority for the district's schools. The initial board will be responsible for planning the first year of operations; the forming boards will be responsible for the last year of operations. To the extent that these boards disagree about the right course of action (for example, hiring a principal) there will be conflict and confusion. The Agency feels it is best to limit the time of conflict and confusion, rather than extend it.

4. Neither an objective set of criteria for delay-eligibility nor deferring to local boards is appropriate.

- An across-the-board delay for all districts would severely disadvantage newly formed districts that wish to move forward this year.
- A delay based on objective criteria (either House-passed or new criteria) will create perceived winners and losers among the group of districts created by the State Board's order.
- A delay at the discretion of the initial board will set up a contentious election for initial board members, a difficult board decision around small schools grants, and the potential need for a forming district to rush to create a single-town school district budget for the forming district's final year of operations. It is foreseeable that these circumstances could create a toxic governance atmosphere on the initial board. The General Assembly should avoid policy decisions that create more conflict and mistrust in the newly formed union districts.