

Memorandum

TO: House Committee on Education

FROM: Jeff Fannon, Vermont-NEA Executive Director
Rebecca McBroom, Vermont-NEA General Counsel

DATE: February 21, 2025

RE: Collective Bargaining for School Employees and Governance Consolidation

Thank you for inviting us to speak with you about collective bargaining issues for school employees should there be a significant consolidation of school governance structures such as proposed by Governor Scott. While the governor proposes going from the current 119 school districts to 5 districts, our comments are not specific to the governor’s proposal but our comments are more general in nature but assume there will be a significant reduction in the number of school districts.

We will break apart our testimony into three parts: a very brief primer on school employees collective bargaining; a brief summary of how collective bargaining was navigated after the passage of Act 153 (2010) and Act 46 (2015); and a brief summary of some collective bargaining concerns we see if there is a huge reduction in the number of school districts.

Teachers and other school employees, a/k/a school support staff, bargain with their employing school boards over the terms and conditions of employment, which results in a collective bargaining agreement (“CBA” or “contract”). Bargaining by teachers and their employing school boards is governed by the Labor Relations for Teachers Act, 16 V.S.A. Chapter 57, and bargaining by school support staff and their employing school boards is governed by the Municipal Employees Labor Relations Act, 21 V.S.A. Chapter 22. These bargaining laws have been cemented in law for more than 50 years in Vermont, which is to say they are mature and the caselaw is well settled such that the parties know well the contours of the process. Currently, bargaining occurs between local school districts and their corresponding local unions. Schools district have bargaining teams composed of local school board members (parents, local community members, etc.), and corresponding local unions have bargaining teams composed of either teachers or support staff, depending on the contract. Collective bargaining, including public education bargaining, always occurs between employees and their employer – regardless of mergers. This is a basic and foundational precept of labor law.

Many years ago now, there was Act 153 that passed in 2010. That law created a voluntary merger incentive program that also included protections for teachers and school support staff during the merging of districts. *See* Act 153 (2010) at Section 3(g). The mergers were voluntary, but the law required SU bargaining, which Vermont-NEA had been encouraging before the

passage of Act 153, because we knew it was more efficient to bargain at the SU level. Additionally, Act 153 required all special education teachers to be employed by the SU or SD, but it allowed districts to decide whether to employ special education support staff at the SU/SD level. Most schools did employ support staff at the SU/SD level, but not all.

After the passage of Act 46 in 2015, there was a process by which all teachers and school support staff were insulated from the elimination of their former employing school district. Act 46 added three sections to Title 16, sections 1801-1803, which governed the transition of school employees during the merger of school districts.

The Transition of Employees provisions required a new district or SU resulting from any form of district or SU merger ("merging district") to do the following:

1. Hire the employees of merging districts. The new district or SU was required to:
 - Hire all employees of merging districts for whom there are positions on the same terms and with the same accrued leaves and associated benefits they had as employees of the merging districts; and
 - Not consider an employee as probationary if the employee was not a probationary employee of the merging district.
2. Recognize, without requiring an election, the union representing the employees of merging districts as the union representing the employees of the new district. The new district was required, prior to its first day of operation, through its "transitional board":
 - Appoint a negotiations council to negotiate with its future employees;
 - Recognize the current representatives of those employees as the union for the employees of the new district or SU; and
 - Through its negotiations council, engage in negotiations with the union for the purpose of reaching a first collective bargaining agreement for the new district or SU and its employees.
3. Attempt to reach agreement with the union on terms and conditions of employment prior to its first day of existence. If negotiations are not concluded by the new district's or SU's first day of existence, the new district or SU was required to:
 - Comply with the agreements in place for employees of the merging districts;
 - Adhere to provisions of an agreement among the employees of the new district or SU, as represented by their union(s), regarding how to reconcile issues of reduction in force and related matters – seniority, layoff, and recall – during the period prior to ratification of an agreement; and
 - Apply to new employees beginning employment after the first day of the new district's or SU's existence the terms of the agreement applying to the largest applicable bargaining unit among the merging districts.
4. Continue participation in VMERS on behalf of its employees. The new district or SU was required to:
 - Continue participation (if any) in VMERS on behalf of its employees on the same terms as their merging districts participated; and

- Not, through negotiations or otherwise, impair or reduce the membership of any employee from a merging district.

A quick note about the state's retirement plans. Of course, all licensed teachers, including those employed at the 4 historic academies, are required to participate in the Vermont State Teachers Retirement System (VSTRS). School support staff also participate in the Vermont Municipal Employees Retirement System (VMERS), and about 2/3 of all VMERS participants are school employees. Both plans are contributory, which means employees must contribute a percentage of their salary towards their pension.

Acts 153 and 46 both created new entities, a/k/a new merged entities (a district or SU), but the new body became the employing entity for purposes of collective bargaining. If, as is proposed now, the number of school districts is dramatically reduced, the effect on collective bargaining will be much greater than it was under Act 46. Bargaining at a larger structural level will distance those who are bargaining the contract from the students and educators who work with the students, and decisions, therefore, may not take into account what is best for students.

We are happy to answer any questions you may have.