

AGENCY OF EDUCATION

TEAM: Legal Division

ITEM: Will the State Board of Education approve the request of the Otter Valley Unified Union School District to waive default requirements for composition of the Rutland Northeast Supervisory Union (RNESU) Board pursuant to 16 V.S.A. § 719(c)?

SECRETARY'S RECOMMENDED ACTION:

1. That the State Board of Education find the student population in the Otter Valley UUSD is substantially larger than the student population of the Barstow UUSD, and that an adjustment to the RNESU board composition that “more fairly and accurately reflect the relative number of students for which each member district is responsible and the grades for which the district operates a school or schools” should be considered by the State Board;

2. That the State Board request the RNESU board to consider a recommendation for an alternate RNESU board composition and communicate its recommendation, if any, to the State Board on or before May 31, 2024.

STATUTORY AUTHORITY: 16 V.S.A. § 719(c)

OVERVIEW

Unlike membership on the board of a school district, there is no constitutional requirement of proportionality for membership on a supervisory union board.

16 V.S.A. § 266 directs each school district to appoint three of its board members to the SU board, “[b]ut the school board of any district that employs no teacher shall have only one vote.”

Prior to Act 176 of 2021, the State Board’s authority to adjust supervisory union representation was limited to instances when the supervisory union itself initiated a request for such an adjustment. However, in the case of a supervisory union that includes at least one unified union school district, the addition of 16 V.S.A. § 719(c) gives the State Board authority to act either on its own initiative, at the request of the supervisory union board, or at the request of one or more member districts of the supervisory union.

OVUUSD REQUEST

The Otter Valley UUSD Board requested the State Board to waive the default representation requirement for RNESU. The reason given for the request was that “The representation on the RNESU Board as it is currently constituted is highly disproportionate to the sizes of the respective RNESU districts. According to the 2020 census data listed by the Vermont Center for Geographic Information, the combined

population of the towns in the Barstow Unified School District (Chittenden and Mendon) is 2,386, whereas the combined population of the towns in Otter Valley Unified Union School District (Brandon, Pittsford, Leicester, Sudbury, Whiting and Goshen) is 9,103. The total BUSD population combined is less than the populations of either Pittsford or Brandon alone. Relative school populations between the two districts are even more disproportionate.” (Letter from Otter Valley UUSD Board, February 20, 2024).

The Otter Valley UUSD Board’s request refers to the State Board’s authority in 16 V.S.A. 261(d). This section permits the State Board to waive a number of requirements for supervisory unions upon a request from the supervisory union board, including the representation requirement. However, this section does not apply the Otter Valley request, which is coming not from the supervisory union, but from a single member district. Thus, 16 V.S.A. 719(c) applies instead. That section allows the State Board to alter supervisory union representation when required by section 266 “to more fairly and accurately reflect the relative number of students for which each member district is responsible and the grades for which the district operates a school or schools.”

The board’s request did not include the number of students for which each member district is responsible, or a proposed representation model for the State Board to consider. The Agency inquired as to whether the RNESU board had discussed the request and was informed that it has not. The Agency was informed that the Barstow UUSD Board had also not discussed the Otter Valley request. Because the request does not include a discussion of what representation model, as an alternative to the default model, would “more fairly and accurately reflect” the number of students in each district and the grades operated by each district. At this juncture, it is advisable to request the supervisory union board to consider its own recommendation to propose to the State Board.

The current RNESU Board has 6 directors representing the two member districts, three from Otter Valley UUSD and three from Barstow UUSD, the default arrangement pursuant to 16 V.S.A. § 266. As to district governance, there are five directors on the Barstow UUSD board. Two members serve-at large, two serve from Chittenden and one from Mendon. There are 13 directors on the Otter Valley UUSD board. Four serve at-large, three from Brandon, two from Pittsford, and one each from Sudbury, Goshen, Leicester, and Whiting.

According to Agency of Education enrollment date, in school year 2023, enrollment in Barstow UUSD is as follows:

Barstow UUSD (Grades PK – 8) – 199
Grades 9 – 12 (Tuition) – 89

In school year 2023, enrollment in Otter Valley UUSD is as follows:

Lothrop School (Grades PK – 6) – 184
Neshobe School (Grades PK – 6) – 453
Otter Creek Academy (Grades PK – 6) – 110
Otter Valley UHS (Grades 7 -12) - 548

Because supervisory union composition need not be proportional to district population or student population, any number of membership models and number of directors could satisfy the requirements of statute, including the current model. The question for the State Board, then, is which model will suit the needs of the supervisory union. The nature of

those needs are not known at this time. To allow the thinking of and input from the impacted districts and supervisory union, the Agency recommends that the State Board request the RNESU board to consider an alternate board composition, including the total number of supervisory union board members and the number that should be appointed from each member district. The RNESU board should communicate its conclusions, if any, and a summary of its deliberations to the State Board for a future State Board agenda item.

STAFF AVAILABLE: Emily Simmons, General Counsel, Agency of Education