

# State Board of Education

## Draft Meeting Minutes

**Meeting Place: Virtual Teams Meeting/Video/Teleconference**

**Call in #: 1-802-552-8456, Conference ID: 835 267 312#**

**Date: April 21, 2021**

### Present:

**State Board Members (Board):** John Carroll, Chair; Jennifer Samuelson, Vice-Chair; Kim Gleason; Jenna O'Farrell (joined at 8:41 a.m.), Kathy Lavoie; Oliver Olsen; Angelita Peña; Tom Lovett; Lyle Jepson; and Dan French.

**Agency of Education (AOE):** Emily Simmons; Donna Russo-Savage; Patrick Halladay; Deborah Ormsbee; and, Suzanne Sprague.

**Others:** George Belcher, Esq.; Mark Oettinger, Esq., Montroll, Backus & Oettinger, P.C.; Mill Moore, Vermont Independent Schools Association (VISA); Joanna Doria, Ripton; Laura Cox, Ripton; Jane Phinney, Ripton; Emily Hoyler, Ripton; David Major, Westminster; Jack Bryar, Windham Northeast Unified Elementary School District Board Chair; Lynn Morgan, Athens School Board member.

### Item A: Call to Order/Roll Call/and Amendments to the Agenda

Chair Carroll called the meeting to order at 8:30 a.m. He asked the members to introduce themselves. There were no amendments to the agenda.

### Item B: Consent Agenda

Chair Carroll asked if there were any changes to the consent agenda which consisted of the minutes from the [March 17<sup>th</sup>, 2021 meeting](#). There were none. Chair Carroll called the question. The vote passed unanimously.

### Item C: Board Announcements, Student Report

Board Announcements: None

Student Report:

Peña provided an update on the mental health survey that she and Brochu created. She said there were approximately 500 responses. Her school did not send the survey due to the principal's concern that some responses might be difficult and/or disturbing. Peña said the next step was to close down the survey, collect and organize the data and present the findings to the State Board of Education.

Peña said her student council began playing the “Star Spangled Banner” every morning to bring students together and remind everyone that they are all Americans. Some teachers were not in favor of it playing even though the practice was proposed by a teacher. It was under review and discussion. Discussion followed regarding if playing the “Star Spangled Banner” was a new practice, forwarding survey results to local schools and that anything presented to the State Board of Education was a public record.

#### **Item D: Public to be Heard**

None

#### **Item E: Chair’s Report**

Chair Carroll reviewed the State Board voting procedure: 1) changing sequence of names called during a roll call; 2) during a vote, the debate on the topic was closed; and, 3) the Chair might pass the gavel to the Vice Chair to preside over certain agenda items.

Chair Carroll reviewed legislative initiatives. He said there was public discussion pertaining to the State Board’s members and there was misinformation regarding lack of diversity on the State Board, members being mostly male and that most members had affiliations to independent schools. He said this was not the case. The Senate Education Committee responded to the concerns and proposed amendments to 16 V.S.A. § 161 that identifies how the State Board was constituted which states that, “To the extent possible the members shall represent the state’s geographic, gender, racial and ethnic diversity.”

Chair Carroll said that House Education Committee has made a proposal under S.115 § 18 - State Board of Education/Agency of Education Roles and Responsibilities. It reads that, “The State Board of Education and the Agency of Education shall jointly report to the House and Senate Committees on Education on how the roles and responsibilities of the State Board and the Agency should be restructured.” He reminded the State Board of S.166 which proposed restructuring the State Board. He added that there were some differences between the State Board and the AOE on dividing some of the roles and responsibilities. The House Education Committee would like the State Board and the AOE to find consensus. A report was required from the State Board and the AOE by the end of the year. If there are areas where there was not agreement on the structure, both parties will identify areas of agreement and disagreement.

Chair Carroll reminded the State Board of the Sunset Advisory Committee and that it concluded that the State Board should be abolished because the State Board had overstepped its authority with adopting Proficiency-Based Learning in 2013 and its proposed changes to the Independent School Rules in 2016 with no direct charge from the General Assembly (GA). Recently the Senate Committee on Government Operations chair asked for an update on the State Board’s progress and noted that it wanted to include S.166 in one of its bills. Chair Carroll said that would be problematic because it bypassed the Senate Education Committee and the House Education Committee who are the committees of authority. The Senate Education Committee then asked for a proposal that would address the concerns regarding the State Board going beyond legislative intent. Both he and Secretary French met and agreed on

language. The language used for the testimony was the first 2 pages in the proposed S.166 that removed “shall establish policy” and added “rulemaking within the limits of legislative intent.”

Discussion followed regarding etiquette of members of the public during State Board meetings and considering using a different virtual meeting platform.

Chair Carroll read this [statement pertaining to the tuition appeals hearing](#). He said there should not be any further comment on the topic.

## **Item F: Secretary’s Report**

Secretary French focused on the COVID-19 pandemic. He said the Governor announced the Vermont Forward Plan. It describes the reopening of Vermont and anticipates the end of the State of Emergency. Its phases are tied directly to vaccination rates. Most of the ongoing work at the AOE was to align the various guidance documents from different agencies to the Vermont Forward Plan. The AOE issued an update to the Safe and Healthy Schools guidance and referenced the Vermont Forward Plan’s framework and timing. It anticipated conditions improving significantly because of vaccination. The guidance included a shift in the distancing in schools from 6 feet to 3 feet and the daily health requirement check that could be done at home. Graduation and end-of-year guidance will be released soon along with guidance on summer camps.

Secretary French said a major planning initiative has launched called [Summer Matters](#) . It was designed to help communities access summer resources and can be found on the Vermont Afterschool website. The AOE recovery planning continues. School districts supplied the AOE with an initial needs assessment for their districts. The focus areas were: 1) social and emotional health (SEL); 2) engagement and truancy; and, 3) academics. The exercise would help in the planning and spending of their federal relief money. The AOE will help school districts set priorities and formalize their plans. Discussion followed regarding the fall and requiring vaccination of students.

## **Item Q: State Board of Education Agenda and Workplan**

Chair Carroll said the meeting was ahead of schedule and he would like to jump to Item Q. He would like to stimulate conversation and continue the conversation in May. Chair Carroll proposed to the State Board a way forward to think proactively about its work on its own initiative. He said he was fond of work groups versus committees. The work groups should exist for 2 - 6 months and have a clear idea of its work product. Once the work product was produced, the work group would cease to exist. Possible topics include developing a strategic vision, governance of education, assessment and accountability, independent and recognized schools and whether the State Board is doing a good job of providing oversight, and what was learned from the pandemic and should anything learned be continued. Once the work group has its finished product, the State Board would vote to approve and could then make recommendations to the GA.

Discussion followed regarding work groups for a set time period was good idea, engaging the public, articulating a clear vision around topics where the State Board has a role, not asserting itself where the State Board does not belong, focusing on equity, equality and efficiency,

coherence between the AOE and the Board's work, consistency, helping the State Board to not always react, smaller groups, facilitated retreat, responding to concerns, supporting what students need to be successful, and importance of participation from public to inform the vision.

Chair Carroll called for a break at 9:47 a.m. The meeting resumed at 10:00 a.m. Chair Carroll handed the gavel to Vice Chair Samuelson to preside over Item G.

### **Item G: The Mill School: Petition for Declaratory Ruling**

Chair Samuelson said this was a preliminary conference regarding a Petition for Declaratory Ruling which was filed in The Mill School Rate Appeal. She named the State Board members who were present. Secretary French recused himself from deliberations. Mark Oettinger, Esq., identified himself as representing The Mill School. Emily Simmons would represent the AOE. Chair Samuelson reviewed the purpose of the conference and the Petition for Declaratory Ruling that was filed by The Mill School. She explained the purpose of the conference was to allow the parties to give enough information about their position regarding the petition so that the Board can decide what hearing process will be followed. She asked the parties not to supply the facts or merits and she asked the State Board members to not ask questions which might elicit facts or arguments which will be properly presented at a later hearing. The information requested from each party was: 1) preference as to whether the case should be heard by the full Board, hearing committee, or hearing officer; 2) likelihood of a comprehensive stipulation of facts making an evidentiary hearing unnecessary (but allowing for argument); and, 3) if evidence was to be taken, how extensive that evidence is expected to be.

Oettinger responded: hearing by Mr. Belcher; opportunity to argue the law; 3 witnesses; set aside one day for the proceeding; stipulate to facts; decision of the full State Board.

Simmons responded: hearing by full State Board and be advised by hearing officer, Mr. Belcher; facts are limited in scope; provide oral arguments in 30 – 40 minutes.

Olsen asked for the parties in the case. Oettinger said school districts are parties of interest. He said the AOE and the Mill School are the proper parties. Simmons clarified that The Mill School and the AOE are the proper parties. Chair Samuelson asked if the districts would participate. Oettinger said probably not.

Olsen asked Simmons why it was not appropriate for Mr. Belcher to be the hearing officer and why it was more appropriate for the full State Board to hear the case. Simmons responded that she does not see the highly technical details at all relevant to the AOE's interpretation of the rule. Carroll asked for clarification if Mr. Belcher hears the case the recommendation will come from Mr. Belcher and the State Board would vote on that recommendation. Olsen asked that if the State Board decides to have a hearing officer, if either party objected to Mr. Belcher serving in that capacity. There was no objection from Oettinger and Simmons.

Chair Samuelson called for a motion to enter Deliberative Session. Lavoie made the following motion: "I move that the Board enter deliberative session pursuant to 1 V.S.A. §312(e) to consider the process by which to address The Mill School's Petition for Declaratory Ruling by the State Board of Education." Olsen seconded the motion. Roll call vote: Gleason, Jepson,

Lavoie, Lovett, O'Farrell, Olsen, Carroll – Yea. Samuelson did not vote. Olsen clarified that Belcher would be included in the Deliberative Session.

The State Board entered Deliberative Session at 10:30 a.m. The State Board returned from Deliberative session at 11:02 a.m.

Chair Samuelson entertained a motion to appoint a hearing officer to conduct proceedings and bring proposed findings of fact and conclusions of law to the full Board with the idea that those proposed findings of fact and conclusions of law would be presented and at that point there will be an opportunity for attorneys for The Mill School and the Agency of Education to indicate their agreement or disagreement with those proposed findings of fact and conclusions of law and the Board would go into deliberative session to render its final decision.

Kathy Lavoie made the motion. Jepson seconded the motion. Gleason said she will dissent as she believed the full State Board should be part of the hearing. Roll call vote: O'Farrell, Jepson, Lovett, Olsen, Lavoie, Carroll – Yea. Gleason – Nay. Samuelson did not vote. The motion passed.

Chair Samuelson entertained a motion to appoint George Belcher to be the hearing officer to preside over and execute the responsibilities outlined in the preceding motion. Lavoie made the motion. Gleason seconded the motion. There was no discussion. Roll call vote: Olsen, Jepson, O'Farrell, Lovett, Lavoie, Gleason, Carroll – Yea. Samuelson did not vote. The motion passed.

Vice Chair Samuelson passed the gavel back to Chair Carroll.

### **Item H: SBE Rules 2220 Committee - *PROPOSED NON-173 RULES 2220***

Olsen addressed the non-Act 173 mandated changes that the committee was recommending to the State Board to consider for adoption as part of the Act 173 rulemaking process. There were two other pieces of work running concurrently that will be harmonized during the formal rulemaking process. The substance of the proposed rules has been reviewed at previous State Board meetings. Olsen referenced [the phase one revisions document](#) that includes the proposed rule changes and added that the amendments presented are mark-up of a draft and subordinate to the amendments that have been proposed by the Act 173 Advisory Group. He said the document represented the additional amendments the subcommittee would make on top of the other proposed rule changes pending before the State Board. The proposed changes would tighten up the process around handling complaints and investigations and introduced a probationary status; and, schools with a boarding school or residential component would be approved by a third-party accreditation agency.

Olsen made a motion that the State Board provisionally approve the amendments to the Rule 2220 series in anticipation of them being harmonized with the other changes as mandated by Act 173 for formal incorporation into the rulemaking process. Lovett seconded the motion. Discussion followed regarding correcting a scrivener's error on page 5 of the draft and if the language in Rule 2224 pertaining to notifying the AOE was new. Roll call vote: Lovett, Lavoie, Gleason, Olsen, O'Farrell, Jepson, Samuelson, Carroll – Yea. The motion passed unanimously.

Olsen said another change that was being considered is the use of third party accreditation agencies. He said the State Board was familiar with the New England Association of Schools

and Colleges (NEASC). They have a robust and comprehensive accreditation process. Cost could be an issue to smaller independent schools. Another regional accrediting entity was seeking recognition from the State Board, the Association of Independent Schools of New England (AISNE). They focus on smaller elementary schools and their cost was lower than that of NEASC's.

Olsen said the subcommittee identified an issue with Rule 7320 where third-party accreditation agencies were listed. The list was out of date and some of the accreditation agencies may not be appropriate for Vermont. Olsen said conversations would continue regarding the criteria or standards when the State Board approves third-party accrediting agencies. The committee was looking for greater reliance on third party accreditation agencies.

Olsen said the State Auditor issued an audit that touched on the Independent School Approval process. They made some good recommendations and the subcommittee would like to codify some of the recommendations in rules.

### **Item J: SBE Rules 2220 Rate-setting Group – *FINAL ACT 173 RATE-SETTING RULES 2220***

Emily Simmons, AOE General Counsel, and Mill Moore, Vermont Independent Schools Association and the Council of Independent Schools, presented to the State Board. Simmons reviewed the prior meetings and the possibility of a special State Board meeting to review the competing proposals. The groups came to consensus and no special meeting was required.

Simmons referred to the [strike all document](#) that was supplied to the State Board and said the State Board voted provisional approval of a set of amendments to Rule 2200 on March 17, 2021 and that the text was proposed to replace one section of those proposed amendments, Rule 2232 (current Rule 2228.8), in its entirety. Simmons reviewed the text: 1) statement from statute that allows the Secretary of Education to set the rate; 2) deadline for deciding to request a new rate was November 15; 3) allows for annual rate to be inflated by National Income and Product Accounts (NIPA) if schools are satisfied with their rate; 4) therapeutic schools must submit a new application when requesting a new rate and include costs and proposed operational capacity; 5) new therapeutic schools may submit an application at any time; 6) timeline; 7) Secretary shall evaluate each element of the application for new rate approval submitted pursuant to subsection; 8) Secretary shall determine the rate on a per-student basis; 9) Secretary shall notify a therapeutic school of the final rate approval by January 15; 10) the school shall not exceed that rate until such time as a new tuition rate is approved by the Secretary; and, 11) a therapeutic school that is not satisfied with the final rate may request reconsideration by the Secretary and appeal to the State Board or, alternatively, appeal directly to the State Board of Education. The State Board's decision shall be final.

Discussion occurred regarding extraordinary circumstances, database compiled by AOE, general ledger account description level as a term of art, transitional period for schools and the specificity of school's costs.

Chair Carroll sought a motion to to provisionally approve the rate-setting language as presented. Olsen made a motion that the State Board shall grant provisional approval of the report of the Act 173 Rate-Setting Group for integration with other reports as final draft

proposal for changes to Rule Series 2220. Gleason seconded the motion. Discussion occurred regarding provisional acceptance versus full acceptance. Roll call vote: Olsen, O'Farrell. Lovett, Lavoie, Jepson, Gleason, Samuelson, Carroll – Yea. The motion passed unanimously.

### **Item K: Waiver Request Rule 2222.1**

Patrick Halladay, AOE Director of Education Quality, presented to the State Board. He said due to the pandemic, there have been no in-person independent school reviews which are required by State Board rule. He said the waiver would allow for a desk review/virtual review to address the backlog and address some of the issues created by the pandemic. Halladay referred to the [briefing document](#). He said there was not a way to determine the quality of a program without a review. Some independent schools requested an amendment to their approval to add a disability category. Some schools have exceeded the five-year approval and the team would like to get them current and in compliance. The team's priorities are: 1) Applications from approved independent schools seeking amendment(s) to their current SBE approval; 2) Applications from entities seeking initial approved independent school status; 3) Applications for renewal from NEASC accredited schools seeking General Education only; 4) Applications for renewal from NEASC accredited schools seeking General Education and Special Education; and, 5) Applications for renewal. Halladay explained the process for a desk review/virtual review and felt the team could perform high-quality reviews.

Discussion followed regarding not being comfortable with approving a new school without an on-site visit, limited term, school renewals being provisional pending an on-site visit, schools that have received a complaint would not eligible to receive a desk review, schools that have exceeded five-year limit be top on the list, hybrid reviews, NEASC accredited schools, process of virtual visit, schools' technology and cooperation, update to the State Board in 6 months, criteria for desk review, contracting with third party to conduct review, waiver request received late and backlog building, schools not operating under normal circumstances, in-person reviews are preferred by independent school team, concern with duration of the waiver request, timeline and some programs are more impacted by delay.

Olsen made a motion that the State Board of Education waive its rule 2222.1 which states a review committee shall visit a school so that the independent school team can have until December 31, 2021, to mitigate the backlog of independent school renewals created by COVID-19; this waiver shall be limited to consideration of renewals of existing schools where there is no evidence that the AOE was aware of concerns/complaints about the school, its program or staff. Samuelson suggested that the approvals last for a period of 2 years. Lavoie asked that amendments to existing schools be added. Olsen took that as a friendly amendment and said, "renewals and or an amendment to an existing school". Chair Carroll asked to hear the motion again.

Olsen made a motion that the State Board of Education waive its rule 2222.1, which states a review committee shall visit the school, so the independent school team can have until December 31, 2021, to mitigate the backlog of independent school reviews created by COVID-19; this waiver shall be limited to renewals and or amendments to existing school program pertaining to the school, its program or staff. Samuelson seconded the motion. Further

discussion ensued regarding a new complaint, known complaints and keeping notes on the process. Olsen stated the motion again – I move that the State Board of Education waive its rule 2222.1, which states a review committee shall visit the school, so the independent school team can have until December 31, 2021, to mitigate the backlog of independent school reviews created by COVID-19; this waiver shall be limited to renewals and or amendments to the approval of existing school programs, where the Agency has no evidence of complaints pertaining to the school, its program or staff. Roll call vote: Samuelson, Lavoie, Lovett, Gleason, Jepson, O’Farrell, Olsen, Carroll - yea. The vote passed unanimously.

Chair Carroll called for lunch at 12:37 p.m. The meeting resumed at 1:00 p.m.

## **Item L: Policy Coherence**

Secretary French referred to his [Policy Coherence and School District Quality Standards](#) presentation. He prefaced by saying the slides have not been updated during the COVID-19 pandemic and that it was designed to create conversation. He said the concepts were observations since becoming Vermont’s Secretary of Education in 2018 and the role of the State Education Agency (SEA). He said it was important to think as school districts and systems, not just schools and putting central functions to the district such as curriculum. Secretary French addressed: 1) policy roles of the Legislature, State Board of Education and the AOE; 2) AOE purpose statement of leadership, support and oversight; 3) Post Act 46 Theory of Action starts with AOE then onto districts who inform their schools; 4) Policy Coherence; 5) Case example - Proficiency-Based Learning (PBL); 6) Case example – Every Student Succeeds Act (ESSA) State Plan; 7) Conclusions; 8) School District Quality Standards – An Opportunity for Proactive Policy Coherence; 9) Massachusetts District Quality Standards; 10) Discussion Questions. Secretary French said that the presentation was created after Act 46 and attempted to point a path forward. He added part of the conversation pertaining to the presentation could be what does the future of education hold.

Discussion followed regarding thought provoking presentation, loose standards over governance, viewing through the domains of equity, quality and efficiency, role of the State Board to support the AOE or work parallel to it, facility quality, 21<sup>st</sup> century learning, lack of comprehensive engagement and connection with PBL and ESSA, tracking what is happening in school districts and a composite view of districts.

## **Item M: Union School District Withdrawal – Overview**

Donna Russo-Savage, AOE Staff Attorney, said that a [Memorandum on the Withdrawal of Union School District](#) and a [Conditional Declaration](#) were provided in the meeting materials and would address the State Board’s responsibilities on the withdrawals. She said the first matter would be Ripton’s withdrawal from the Addison Central School District (ACSD). If approved, Ripton would become an independent town school district, responsible for the PreK–12 education of its resident students. She said the second matter was Westminster’s request to withdraw from the Windham Northeast Union Elementary School District (WNUESD). If approved, Westminster would be responsible for the PreK–8 education of its resident students. Westminster’s resident 9-12 students are enrolled in the union high school district of which Westminster was a member.



There are two different statutes that govern the withdrawals and the State Board's duties are the same in each. Russo-Savage reviewed the duties which are performed in a specific sequence. She also reviewed a series of connected considerations and decisions that pertain to the first duty and referenced both the memorandum document to help explain and clarify statute as well as the State Board duties. Russo-Savage said Ripton and ACSD agree in principle that the guidance was lacking legal authority on performing essential tasks. She referred to the conditional declaration document and read the five conditions requiring completion before taking effect. She added that the May meeting would be the earliest the State Board could consider whether the ACSD should continue without Ripton and the September meeting would be the time for the State Board to consider a new supervisory union assignment and whether July 1, 2022 will be the effective date.

Chair Carroll said that Russo-Savage has conferred with Ripton's legal team. She has not met with Westminster's legal team.

### **Item N: Request for Ripton to Withdraw from the Addison Central School District**

Chair Carroll invited the Ripton representatives to address the State Board. He asked them to answer the specific questions that the State Board must hear affirmatively before it can grant approval for withdrawal. Representatives from Ripton are Laurie Cox, Chair Ripton Select Board, Joanna Doria, Jane Phinney, former principal of Ripton Elementary School and Emily Hoyler.

Cox introduced herself. She requested an additional condition be added to the conditional declaration under part b-3 which would state "Addison Central Supervisory District will remain responsible for all aspects of education of Ripton students through the close of 2021-2022 school year." Cox explained the geographic location of Ripton and history of the area. Doria introduced herself. She offered a brief history of the withdrawal process and the reasoning behind the request to withdraw. Chair Carroll asked that the presentation focus on whether provisions have been made for the education of its children. Phinney introduced herself. She said the school would continue as it has in the past and that it is their expectation that another supervisory union would provide support to them in terms of governance and other areas. Phinney said the ACSD was pulling the PreK program from the school in Ripton and the 6<sup>th</sup> graders would go to the Middlebury Union Middle School because that fits better with the International Baccalaureate Program. She hoped to get the PreK program back for children aged 3 and 4. She felt that they have all the supports needed for special education and Educational Support Team (EST) programs. She felt low-income students are cared for through special education and ESTs and through enrichment activities that would be provided. Phinney added that the building was in good shape. She hoped the reestablishment of the school in a Town District will be centered around students and their families.

Olsen asked that the presentation focus on whether the Ripton School District grades PreK – 12 will be given the opportunity to attend a school that is in compliance with rules adopted by the State Board. He continued that the State Board must know where the PreK students would attend school and where the students in the grades Ripton does not operate will attend school and that confirmation has been received that there was a place for the students to attend.

Phinney responded that the students in grades 7-12 will attend Middlebury Union Middle School and High School. The ACSD superintendent has assured Ripton that there was room for the students in those schools. It has not been decided whether to tuition the 6<sup>th</sup> graders to the Middlebury Union Middle School. Ripton recently learned that ACSD was taking PreK away. Ripton School District would like to bring it back when they are an independent district.

Chair Carroll reviewed the statute with the State Board. Discussion followed regarding adding a PreK teaching position and tuitioning 6<sup>th</sup> graders, financial capacity, private PreK, current agreement with White River Valley SU, State Board's approval must be conditioned, tuitioning high school students, financial capacity to pay for quality teachers, the State Board straying beyond the narrow charge and tuition payments putting pressure on the school budget.

Samuelson made the following motion:

Samuelson moved that the State Board of Education:

1. **FINDS** that if it reconstitutes the Ripton School District for prekindergarten through grade 12 effective on July 1, 2022, the students living in Ripton "will attend a school that is in compliance with the rules adopted by the State Board pertaining to educational programs" in the 2022-2023 academic year; and
2. **APPROVES** the request of the Ripton voters to withdraw from the Addison Central School District pursuant to 16 V.S.A. § 724(c) to be effective on a date to be determined at a future meeting of the State Board of Education.

Lavoie seconded the motion. Discussion followed regarding a school that is in compliance versus one that will be in compliance, concern with educator turnover resulting in inexperienced staff, and the State Board's questions being considered at its May meeting. Olsen said that, for the record, he has concerns with a small school operating an elementary school and tuitioning other grades concurrently. It puts pressure on the operating grades and it may not be viable. Russo-Savage said that structurally how Ripton was operating prior to merger into the ACSD was much different than how they are planning to operate as an independent school district. Further discussion continued regarding maintaining a school while tuitioning students, questions that should be answered by a school board and that there is no school board. Chair Carroll said he would entertain a motion to table the motion. Samuelson withdrew the motion.

Chair Carroll expressed interest in the Ripton community presenting to the State Board at the May meeting. He asked Russo-Savage to put together a list of questions that need to be answered and share them with the Ripton representatives. Olsen wondered if Russo-Savage could interpret the statute with regards to the main questions being asked by the State Board. He further asked Ripton to model out the next few years including tuitioning students and operating a school.

Chair Carroll said the State Board was determined to undertake the issue in good faith and apply its own best judgment to the statute as it appears. He said the State Board needs more time and clarity on the questions it wants answered.

## **Item P: Request for Westminster to withdraw from the Windham Northeast Union Elementary School District (WNUESD)**

Chair Carroll invited representatives from Westminster to present to the State Board. He asked that they be brief with the overview and focus on the question to assure that all students will attend a school that complies with State Board rules. David Major, Westminster Town Moderator gave the presentation as a volunteer. He said that voters from Athens, Grafton and Westminster have consistently voted against merger. Westminster's electorate voted to withdraw from the WNUESD in January 2021 and voters in Athens and Grafton approved Westminster's request to withdraw in March 2021.

Major said that the appointed and elected members of that school board have worked to find the efficiencies and other benefits that were intended by Act 46, but the efficiencies and cost savings were not found. He said the children have not suffered in terms of the quality of their education because of the merger nor has their education been enhanced by it. He provided details to support the statement that the students in the withdrawing member district will attend a school that is in compliance with the rules adopted by the State Board pertaining to educational programs. Supporting details included: Westminster School Board representation on the Windham Northeast Supervisory Union (WNESU) School Board; professional development was coordinated through the WNESU; supervisory union wide coordinated services such as special education, transportation, and food services; grants obtained create and support pre-school and after school programs, gardening, literacy and other enrichment programs and also serves as the site for serving children with intensive needs throughout the supervisory union; Westminster test scores were as good as or better than the other elementary schools in the WNESU; Westminster voters consistently vote to approve school budgets; and, faculty and staff at the Westminster school have been stable for years.

Discussion followed regarding the structure of operating and tuitioning in the Westminster school remaining the same and all students attend schools that are in compliance with State Board rules. Chair Carroll asked for a motion. At the Chair's request, Russo-Savage explained the differences in the draft motions provided. Major said he had thought this would take effect on July 1, 2021. There is a pending warned meeting in May to elect school board members. He added that there should be no trouble for Westminster to elect a school board, create a budget, and have a financial separation vote well before July 1, 2022. Further discussion occurred regarding hearing from Athens and Grafton representatives and the current warned meeting being invalid.

Samuelson made the following motion:

I move that the State Board of Education:

1. **FINDS** that if it reconstitutes the Westminster School District for prekindergarten through grade 8 effective on July 1, 2022, the students living in Westminster "will attend a school that is in compliance with the rules adopted by the State Board pertaining to educational programs" in the 2022-2023 academic year; and therefore
2. **APPROVES** the request of the Westminster voters to withdraw from the Windham Northeast Union Elementary School District pursuant to 16 V.S.A. § 721a(c) to be

effective on a date to be determined at a future meeting of the State Board of Education.

Olsen seconded the motion. Major urged the State Board to use the second draft motion instead. Jack Bryar, Chair of WNUESD Board, said there was a sense of urgency to get it done and transfer debt. He was fine if alternative #2 was used. Lynn Morgan, Athens School Board member, said she has no problem with Westminster withdrawing and going back to the way things were before. The two schools have operated because of the distance and much of the work is coordinated by the supervisory union. Bryar said the district operates by consensus. Lovett suggested that the State Board consider alternative #2 since all parties agree.

Samuelson withdrew her motion and made a new motion.

I move that the State Board of Education:

1. **FINDS** that if it reconstitutes the Westminster School District for prekindergarten through grade 8 effective on July 1, 2022, the students living in Westminster “will attend a school that is in compliance with the rules adopted by the State Board pertaining to educational programs” in the 2022-2023 academic year;
2. **APPROVES** the request of the Westminster voters to withdraw from the Windham Northeast Union Elementary School District pursuant to 16 V.S.A. § 721a(c),
3. **DECLARES** that the withdrawal of Westminster from the Windham Northeast Union Elementary School District shall be effective as of **July 1, 2022**; and
4. **DECLARES**:
  - That the Westminster School District is reconstituted as a prekindergarten through grade 8 school district;
  - That the Westminster School District shall assume sole responsibility for the education of its resident students in prekindergarten through grade 8 on **July 1, 2022**; and
  - Between **April 21, 2021** and **July 1, 2022**, the Westminster School District shall exist solely for the purpose of meeting each of the conditions outlined below and transitioning to full operations.

**PROVIDED**, however, that the approval, the declarations, and the effective dates of July 1, 2022 in this motion are **CONDITIONED** on completion of each of the following on or before **September 8, 2021** in a manner satisfactory to the State Board:

- i. **Election of School Board Members.** The Secretary of State calls a special election at which the Westminster School District voters elect school board members pursuant to 16 V.S.A. § 424(c).
- ii. **Negotiation of Financial Agreement.** The Westminster School Board and the Windham Northeast Union Elementary School Board negotiate and finalize the proposed financial details of withdrawal pursuant to 16 V.S.A. § 721a(c), which proposal is presented to the voters residing in each of the three towns of the Windham Northeast Union Elementary School District for approval.
- iii. **Approval of Financial Agreement.** The voters residing in each of the three towns within the Windham Northeast Union Elementary School

District vote to approve the negotiated financial arrangements pursuant to 16 V.S.A. § 721a(c).

- iv. **Written Report to State Board of Education.** The Westminster School Board notifies the State Board in writing no later than **September 8, 2021** of the results of the activity in subdivisions (ii) and (iii) above.
- v. **Attendance at State Board of Education Meeting.** Members or representatives of the Westminster School Board and the Windham Northeast Union Elementary School Board appear before the State Board at its regularly-scheduled meeting on **September 15, 2021** to answer questions regarding the activity in subdivisions (ii) and (iii) above, recognizing that the results of the subdivision (iii) vote may not be final.

Olsen seconded the motion. Discussion followed regarding Athens and Grafton. Russo-Savage said that the State Board either affirms the existence of the existing UESD or reconstitutes new districts. Roll call vote: Lavoie, Lovett, O'Farrell, Olsen, Samuelson, Jepson, Gleason, Carroll – Yea. The vote was unanimous.

Chair Carroll read: The State Board of Education **NOTIFIES** “the remaining towns and cities in the [Windham Northeast Union Elementary] school district” of the State Board’s intent to meet on **May 19, 2021** and of the opportunity for “the relevant representatives” to be heard at that time regarding “whether it is in the best interests of the State, the students, and the [two] members remaining in the union district for the [Windham Northeast Union Elementary school district] to continue to exist.” He encouraged the members to be present.

## **Adjourn**

Olsen made a motion to adjourn. Gleason seconded the motion. The vote was unanimous. The meeting adjourned at 3:58 p.m.

Minutes prepared by Suzanne Sprague