

AGENCY OF EDUCATION
Barre, Vermont

TEAM: Legal (School Governance)

ITEM: Will the State Board of Education approve the request of the **CALEDONIA CENTRAL SUPERVISORY UNION (CCSU)** to waive default requirements for composition of the CCSU Board pursuant to 16 V.S.A. § 261(d) by permitting appointment of alternate members?

The SECRETARY RECOMMENDS that the State Board of Education grant the CCSU Board's request for a waiver permitting each member school district to appoint an alternate member to the SU Board.

STATUTORY AUTHORITY: 16 V.S.A. §§ 261(d), 266

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

16 V.S.A. § 266 directs the board of each school district to “elect from such board three members who shall represent and act for it” at SU meetings, “[b]ut the school board of any district that employs no teacher shall have only one vote.” The State Board is authorized, however, to waive the § 266 default requirements regarding SU Board composition at the request of the supervisory union board if the “waiver will result in efficient and effective operations of the supervisory union; will not result in any disproportionate representation; and is otherwise in the public interest.” 16 V.S.A. § 261(d)

At its June 19, 2019 meeting, the State Board approved the CCSU Board’s request to waive the default membership requirements. As a result, the Caledonia Cooperative School District Board appoints three of its members to sit on the SU Board and the Cabot, Danville, Peacham, and Twinfield Unified Union School District Boards each appoint two of their members.

On behalf of the CCSU Board, Superintendent Mark Tucker now requests that the State Board authorize each of the five member school districts to appoint one additional member to serve as an alternate for the board members appointed per the State Board’s June 19, 2019 order.¹ The CCSU anticipates that the alternate member would cast a vote when the regularly-appointed member could not attend, explaining that there are “Board members who travel [in connection with their employment] (including the two who represent Peacham) and this seems like a reasonable approach to addressing their representation needs.” The CCSU Board would expect alternates “to attend ALL SU Board meetings so that they are current on Board discussions.”

¹ Attached are draft minutes from the CCSU Board’s November 18, 2019 meeting concerning this issue.

Neither § 266 nor any other provision in Title 16 contemplates the appointment of alternates to SU boards. The State Board has authority to grant a waiver to “supervisory union board structure [or] board composition” if it determines the waiver “will result in efficient and effective operations of the supervisory union; will not result in any disproportionate representation; and is otherwise in the public interest.” 16 V.S.A. § 261(d).

Given the breadth of the authority granted, it is not unreasonable to assume that a § 261(d) waiver could address alternate members. In fact, the State Board relied upon subsection (b) earlier this year when it granted the Two Rivers Supervisory Union Board’s request for a waiver to allow both of its two member districts to appoint an alternate to the SU Board.

The Secretary notes the importance of ensuring consistency and transparency and is concerned that these goals will be hampered by a system that could permit an alternate member to vote on a matter even when that member has not participated in the meetings at which the matter was discussed. The CCSU’s stated intention that alternates would attend every SU Board meeting addresses this concern, particularly in a district where both of the regular appointees are sometimes unable to attend meetings for work-related reasons.

Accordingly, the Secretary recommends that the Board grant the CCSU’s request.

STAFF AVAILABLE: Donna Russo-Savage, Staff Attorney