

MEMORANDUM

TO: State Board of Education
FROM: Daniel M. French, Ed.D., Secretary of Education
SUBJECT: Analysis – SU Services for the Lincoln School District
DATE: November 10, 2022

I. Background

Through self-selected representatives, members of the Lincoln community initiated an action to withdraw from the Mount Abraham Unified School District (“MAUSD”). At the urging of attorneys for these representatives, the State Board of Education issued a final declaration on May 18, 2022 that approved Lincoln’s withdrawal and reconstituted the Lincoln School District (“LSD”) pursuant to the version of 16 V.S.A. § 724 then in effect. The new LSD came into existence upon issuance of the declaration and became responsible for taking all steps necessary to assume sole responsibility for the education of its prekindergarten through grade 12 students on July 1, 2023.

The Lincoln representatives requested that the State Board create a new supervisory union to serve the LSD, the Ripton School District (“RSD”), and – if created – a new Starksboro School District. In response to the State Board’s queries, Lincoln representatives provided assurances that the LSD would neither seek to be placed within an existing SU nor ask the State Board to create a new SU to serve the LSD and the MAUSD. The State Board indicated that, at its September 2022 meeting, it would consider the manner in which SU services would be provided to the LSD. The Board sought comments from all potentially affected parties.

On September 1, 2022, attorneys for the LSD submitted a memorandum contending that:

1. Assignment to an existing, multi-district SU is “the best available option.”
2. Creation of a new SU that includes the LSD and one or more other school districts is “no longer viable given the SBE’s findings regarding Ripton, Ripton’s potential return to a unified district, and the potential that Starksboro’s withdrawal from the MAUSD will be unsuccessful.”¹

¹ Voters in the Ripton School District voted on September 29, 2022 to rejoin the Addison Central School District pursuant to Act 176 (2022), Section 4. The vote was not warned for reconsideration and is final. Voters in New Haven voted on August 9, 2022 to reject Starksboro’s petition to withdraw from the MAUSD. The vote was not warned for reconsideration and is final.

3. Designation of the LSD as its own single-district SU would “contravene” statutory authority for such designation based on whether a district is “large enough to support the planning and administrative functions of a supervisory union.”²
4. Although creation of an SU to serve both the MAUSD and LSD is “a viable option[, both districts] have expressed reservations about this solution.”

The LSD supported these points in a written statement also dated September 1. The statement named nine existing SUs³ with which the LSD had been or planned to be in communication and identified the White River Valley SU (“WRVSU”) as being “best aligned” to the LSD’s needs. LSD Board members gave oral testimony at the State Board’s September 28, 2022 meeting.

Eleven SUs and supervisory districts (single-district SUs, also known as SDs) provided written and oral testimony regarding their ability and willingness to include the LSD as a member district in an enlarged or newly-created SU. Each SU/SD offered persuasive arguments that assuming responsibility for the LSD would result in negative consequences to students within the SU/SD and to the SU/SD system as a whole.

At the State Board’s request, the LSD Board narrowed the list of the district’s preferred options to (i) assignment to the Central Vermont SU (“CVSU”), (ii) assignment to the WRVSU, and (iii) creation of a new SU to include the MAUSD and LSD.

On September 28, the State Board requested my analysis and recommendations regarding the following options:

1. Assignment of the LSD to the CVSU
2. Assignment of the LSD to the WRVSU
3. Creation of a new SU to serve the MAUSD and the LSD
4. Creation of a new SU to serve the Ripton School District and the LSD⁴
5. Designation of the LSD as its own single-district SU

II. Supervisory Unions and the Services Provided

An SU is “an administrative, planning, and educational service unit created by the State Board” that provides those services to its member school districts.⁵ An SU that consists of only one school district is identified as a supervisory district, or SD.⁶ An SU/SD is responsible for providing, or providing for, a broad range of services to its members, including special education, financial and student data management, transportation, and collective bargaining.⁷ Unlike a school district, an SU is not a municipality and thus does not have its own tax rate or a

² 16 V.S.A. § 261(c).

³ One of the nine SUs identified was the “Montpelier/Roxbury SU.” The Montpelier Roxbury School District is in fact a supervisory district.

⁴ In light of the Ripton School District voters’ decision on September 29 to return to the ACSD, which is now final, this is no longer an option and is not addressed in this memorandum.

⁵ 16 V.S.A. § 11(a)(23).

⁶ 16 V.S.A. § 11(a)(24).

⁷ 16 V.S.A. § 261a.

voter-elected board. Further, an SU budget is not directly approved by the voters, but rather the SU board assesses a portion of the total SU budget to each member district, which is then included as a fixed line-item in the school district budget.

For many decades, the State Board has had independent authority to review and re-define supervisory union boundaries

in such manner as to afford increased efficiency or greater convenience and economy and to facilitate prekindergarten through grade 12 curriculum planning and coordination as changed conditions may seem to require.⁸

In connection with this authority, the State Board

may designate any school district, including a unified union district, as a supervisory district if it will provide for the education of all resident students in prekindergarten through grade 12 and is large enough to support the planning and administrative functions of a supervisory union.⁹

As the State Board observed in its Preparedness Report for the Ripton School District issued in August 2022:

[O]perating a school district, a supervisory union, or both occurs in a highly regulated context, requiring substantial technical expertise to ensure that the civil rights and educational needs of all students are protected and that fiduciary obligations are met.

In addition,

by choosing to withdraw from an existing [unified union] school district, [a newly formed single-town district assumes] not only the task of operating an elementary school, but a much larger set of obligations to all students, prekindergarten-grade 12, that are typically managed by a cross-functional team of professionals who support many students within a larger system of governance (while supporting both large and small schools) at scale. Again, this is true regardless of whether [the district] operates as its own single-district supervisory union, creates a new supervisory union with one or more other districts, or is assigned to an existing supervisory union. [The] weight of these obligations would pose an even greater threat to the continued viability of [a new district's] elementary school [than remaining in the original union school district].

Transition is not easy, regardless of whether (i) a new district assumes the responsibility to provide its own SU services, (ii) a new SU is formed around a new district and the union school district from which it withdrew, or (iii) or an existing multi-district SU becomes responsible for a new district.

⁸ 16 V.S.A. § 261(a).

⁹ 16 V.S.A. § 261(c).

If the State Board chooses either to include the LSD in the CVSU or the WRVSU or to create a new SU to include the MAUSD, then negative effects of the decision can be mitigated, at least in part, if the SU:

- (i) Obtains a waiver from the default number of appointed school board members who sit on an SU board.¹⁰
- (ii) Changes the method by which SU expenses are allocated to member districts.¹¹

III. Analysis

A. The Lincoln School District

In order to determine how best to provide SU services to the LSD, it is important to begin with a basic understanding of the school district itself.

When the self-selected Lincoln representatives chose to proceed under the then-existing withdrawal statute rather than the Lincoln-specific provisions of Act 176, the LSD not only lost the ability to delay its operational date or to vote unilaterally to rejoin the MAUSD, but the district also was not required to prepare a status report by which the State Board, the Agency, and the public in general could review and assess the LSD's plans for assuming responsibility for its PreK-12 students in 2023 both as a school district and also, potentially, as an SD. As a result, this section draws from public data maintained by the Agency and elsewhere and the information and statements the LSD has provided to the State Board.

The LSD is located in Addison County, on the western edge of the Green Mountain National Forest. The MAUSD currently provides educational services to students residing in Lincoln by operating an elementary school building in Lincoln offering kindergarten through grade 6, and enrolling the LSD's grade 7-12 students in the Mount Abraham Union Middle/High School in Bristol.

The FY22 average daily membership ("ADM") in MAUSD attributable to Lincoln students was 77 (K-6) and 94 (7-12), for a total K-12 ADM of 171. While the total ADM was relatively constant in FY17, FY18, and FY19, ADM attributable to Lincoln has been dropping for the last three years, FY20-FY22. The decrease is due to declines at the elementary school, with the number of K-6 students residing in Lincoln decreasing by 34% between FY17 and FY22. Although the grade 7-12 count increased by 24%, the declining elementary school population resulted in a combined total decrease of 11% for all grades, K-12. Lincoln's prekindergarten ADM decreased by 20% during the same period, from a high of 21 in FY17 to 16.80 in FY22. Data for FY23 are not yet available.

On July 1, 2023, the LSD intends to provide for the education of its K-6 students by operating an elementary school. It will pay tuition to each public school district and approved independent school that enrolls a resident student in grades 7-12, within or outside Vermont. As required by law, the LSD will also pay tuition for its prekindergarten students attending preschool offered

¹⁰ 16 V.S.A. §§ 266, 261(d), and 719(c)(new).

¹¹ 16 V.S.A. § 301.

by another district or a private provider, even if the LSD chooses to begin operating a prekindergarten program in the Lincoln elementary school building.

At the State Board’s September 28, 2022 meeting, the LSD Board Chair made the following representations¹²:

- The LSD is different from the Ripton School District because it is a “larger, more stable, and arguably [more] financially sound school.”
- “Lincoln is fully committed to mitigating potential challenges [to an SU to which it is assigned], cultivating relationships, and actively working to demonstrate its value as a member of the SU.”
- “The Lincoln School District and [LSD] staff are committed to travelling necessary distances to ensure face-to-face participation to build trust and produce relationships, and – as we have all learned – technology enables engagement, communication, and supervision from a distance.”
- “Lincoln has experience in and is prepared to assume responsibility for providing services that may be more efficiently managed at the district level, be it transportation, food service, technology, elements of special education, and others.”
- “Financially, the LSD is in a strong position and [its] financial modelling continues to show [it] will be a net positive contributor to the operations of a supervisory union, with the ability to lower cost per pupil, increase central office capacity, and/or free up funds to support educational programs.”
- “Lincoln Community School is a well-run, highly-regarded K through 6 school, with stable staffing, an experienced, creative, and resourceful principal who has been at the school for 30 years, with the focus on the highest quality of leadership, educational opportunities, and financial efficiency. It is not a school that will burden a superintendent’s time.”
- The LSD Board “does not question that bringing a new district into the SU will require additional work in the short term. At the same time [the LSD Board] believe[s] there are a number of means by which to mitigate many of these challenges and that working in partnership and carrying out a more detailed and factual assessment of the possibilities will build relationships, identify these means, as well as shed more light on the benefits of adding the Lincoln School District to the supervisory union.”
- Although both the LSD and MAUSD have expressed reservations about creating a new SU around the two districts, “many of the challenges expressed by other SUs would not come into play.” For example:

¹² The bulleted quotes appear in the order in which the statements were made and were not regrouped according to topic.

- “Lincoln Community School is currently receiving SU services as part of MAUSD and continuing to receive these services ... would arguably be a relatively smooth transition.”
- Students and programs at the Lincoln Community School are already part of the MAUSD “data and information systems.”
- “Alignment of teacher contracts already exists.”
- Lincoln is “part of the culture and fabric” of the broader community that originally voted to create the MAUSD.
- The LSD Board stated that designating the LSD as its own SD “creates an unacceptable risk to ensuring the adequate provision of critical supervisory union services articulated in Section 261” because:
 - “Lincoln is unable to solely bear the cost, workload, and risk of operating all of the functions of a supervisory union.”
 - Expert testimony provided at the Ripton hearings and summarized in the State Board’s Preparedness Statements highlights that the LSD would have difficulty hiring a highly qualified superintendent, would face financial risk of the unexpected addition of students with the high need for special education services, and regulatory requirements would require more staff than would be available to the LSD.
 - Designating the LSD to serve as its own SD “would require significant collaboration and cooperation with MAUSD to ensure responsible transfer of necessary systems, data, contracts, and resources to new staff and newly created systems in the Lincoln School District. This will place a significant burden on MAUSD and there is uncertainty about its ability to engage at that level in a timely way, especially if merger goes through.”
- “Lincoln is a financially viable school. [The LSD has] run models that allow for a variety of different SU assessments ... The impact would be on [the LSD’s] tax rate. ... [The LSD’s] impact on [the tax rate of other members in an SU] would be different than if [the LSD] were part of a unified district.”
- Lincoln would be “contributing to the cost of the central office and that would allow savings to be incurred. And ... the nature of becoming part of a supervisory union is that you have more districts to share the central office expenses with.”
- “Contributing money to offset central office expenses would be a net positive.”
- “Lincoln is fully prepared to take on responsibility for managing the program [(e.g., the provision of transportation, food service, or special education services)] if they cause inefficiencies in delivery for the supervisory union or if they cause the need for the supervisory union to hire more staff.”

I offer the following initial, general observations:

- The LSD cites as a strength the “principal who has been at the school for 30 years.” It must also be true that the principal likely is now – or soon will be – eligible for retirement.
- Although Lincoln Community School may have experienced “stable staffing” historically, the LSD has not indicated if current employees with seniority in the MAUSD have decided to switch their employment to the LSD, where they would lose the stability inherent in the larger, multi-school system, in order to remain at a school operated by a single-town school district that may need to reduce staffing in future years.
- The scarcity of licensed educators, and of special educators in particular, will likely increase the LSD’s difficulty in hiring staff for full- or part-time positions
- The LSD states that it is “financially viable” and will be a “net positive contributor to the operations of a supervisory union, with the ability to lower cost per pupil, increase central office capacity, and/or free up funds to support educational programs.” It does not indicate, however, if its financial modelling accounts for the negative financial effects of a declining population, particularly in PreK-6, and its inability to control the impact that any increase in mandatory 7-12 tuition payments will have on its ability to operate its elementary programs. It is also unclear whether the LSD has developed contingency plans for unanticipated special education costs, unanticipated students in grades 7-12 for whom it must pay tuition, or the upcoming change in the small schools grant program.
- The LSD’s claim that it cannot be an SD because it would be unable to bear the cost of unexpectedly high special education services reflects a misunderstanding of which entities are responsible for the costs of these services. As a member of a union school district such as the MAUSD, the cost of providing special education services to a child in any town within the district is born by all taxpayers in the district, regardless of the town of residence. In contrast, although an SU is responsible for the provision of special education services to the students in all member districts, a school district is itself responsible for the costs of providing those services to its resident students. The only savings that potentially arise in a supervisory union structure are when the individuals managing or providing special education services serve multiple, neighboring districts.
- The LSD expresses concern for the burden that transferring data would cause to the MAUSD if the LSD becomes its own SD. However, the responsibilities will be no less burdensome if the MAUSD must transfer the data to an existing SU to which the LSD is assigned.

B. Assignment of the LSD to an Existing Multi-District SU – CVSU or WRVSU

On September 28, the State Board agreed to limit consideration of the LSD's potential assignment to a current multi-district SU to the two SUs identified on that date by the LSD: the CVSU and the WRVSU.

While contiguity is not required for the districts within an SU, it is important to consider whether the distance between the LSD and an SU is too large to support the efficient provision of services.

- The CVSU is an SU with an east-west orientation extending approximately 23 miles that is located to the east of the LSD.
 - The LSD and the CVSU do not share any borders.
 - The CVSU provides services from a centrally-located office in Williamstown.
 - Depending upon the route taken, the CVSU central office is between 44 and 64 miles from the elementary school in Lincoln.¹³ Potential routes traverse at least two other school districts and two mountains. The driving time is approximately one hour and ten minutes regardless of the route taken, assuming good weather.
 - The mileage between the Lincoln elementary school building and the western-most CVSU schools in Northfield is slightly less, but the driving times are nearly the same.
- Geographically, the White River Valley SU is one of the largest SUs in Vermont, spanning approximately 37 miles east-to-west.
 - For approximately three miles, the LSD's southeastern edge adjoins the northwestern tip of the Granville-Hancock School District, a nonoperating district of approximately 86 PreK-12 students that is situated along the western edge of the WRVSU. No roads cross the shared border.
 - SU services are provided to the districts of the WRVSU from a central office located in Royalton.
 - By traveling the most direct route, the WRVSU central office is approximately 42 miles over mountainous terrain from the Lincoln elementary school – an estimated one hour and five minute drive in good weather. The next shortest routes initially rely upon Route 89 but also traverse small mountain roads for a total of 62 - 70 miles, a drive lasting approximately one hour and 25 minutes.
 - The route between the Lincoln elementary school and the western-most school building operated by a district within the WRVSU (the Rochester School) is 26 miles via VT Routes 100 and 125 and then the Lincoln Road. The estimated driving time is 40 minutes when the roads are clear.

¹³ All distances and driving times in this memo are based on alternative routes generated by Google Maps. The driving times identified in this memo may be different from those to which the SU representatives testified.

Factors other than proximity are also important to consider. For example:

- Central Vermont SU:
 - The CVSU has a total K-12 ADM of 1,206 in FY22.
 - The CVSU provides services to two member districts responsible for students in four towns:
 - The Paine Mountain School District operates all grades, PreK-12, in four buildings. Its FY22 ADM numbers were approximately 935 (K-12) and 98 (PreK).
 - The Echo Valley Community School District operates PreK-4 and 5-8 in two buildings, and pays tuition for its students in grades 9-12. Its FY22 ADM numbers were approximately 181 (K-8), 90 (9-12), and 26 (PreK).
 - The CVSU and its two member districts were created in response to Act 46 (2015), and became operational on July 1, 2018.
 - The CVSU employs a small central office staff to provide business, special education, human resources, and other services to the two unified districts.
 - In order to serve Lincoln, the SU would likely need to hire additional staff to support duties such as payroll, contracts, accounts receivable and payable, hiring, orientation, benefits, and leave-time – if not in the first year of assignment, then soon thereafter.
 - The distances between the LSD and CVSU would likely necessitate the hiring of additional staff both to provide special education services and also to oversee and support specialized and general instruction in the Lincoln elementary school.
 - The CVSU would be responsible for the IEPs of students in grades 7-12 for whom the LSD will begin to pay tuition.
 - In addition, the CVSU would be responsible for other aspects of education provided to the LSD’s tuitioned students.
 - The LSD’s tuitioned students in grades 7-12 would likely attend schools in Addison County and the surrounding area.
 - The Echo Valley School District, in the CVSU, pays tuition for its students in grades 9-12, most of whom attend schools in Central Vermont and to the east. Last year, CVSU students from Echo Valley tuitioned to schools in Barre, Montpelier, Williamstown, Bradford, and St. Johnsbury.
 - Although the CVSU has experience serving as the LEA for tuitioned students, it is unlikely that LSD students will attend the same schools as those in which CVSU’s Echo Valley students enroll.
 - As a result, the CVSU will not only need additional staff to serve and oversee the needs of the grade 7-12 students in the LSD, but

many of the CVSU administrators (superintendent, curriculum coordinator, special education administrator, business office director, etc.) will need to develop relationships with public school districts and independent schools with whom the SU has no prior experience.

- Geographic realities would likely require the SU to contract with companies for both transportation and food services that are different from the companies providing those services to the current CVSU districts. Separate contracts with different companies will add to the initial and ongoing responsibilities of the small central office.
- On September 28, the CVSU superintendent testified that while a potential 15% increase in total SU ADM occasioned by the addition of LSD students could result in savings due to cost-sharing, the addition of even one additional administrator would eliminate any such savings.
- The CVSU has negotiated an SU-wide contract for its licensed staff, with a uniform pay scale across all buildings. The CVSU's superintendent has indicated that "Lincoln's salary is 15% higher than CVSU."¹⁴ Regardless of the soundness of this figure or the way in which it was calculated, it is a certainty that the base pay, vertical and horizontal increments, number of steps, and number of columns – as well as other aspects of a collectively bargained agreement – will need to be re-negotiated in order to integrate LSD employees into the CVSU.
- Given the shortage of licensed educators, and particularly those with special education endorsements, it is not unreasonable to predict that the need to provide services to LSD students could negatively impact those provided to students in the current member districts.
- White River Valley SU:
 - The WRVSU provides services to six member districts responsible for students in ten towns, with a combined FY22 ADM of more than 1,500 (K-12) and 145 (PreK).
 - While some of the member districts pay tuition for some or all grades, districts within the SU operate a total of six elementary schools, three middle schools, and one high school:
 - First Branch USD (Chelsea, Tunbridge) – K-8 operating/9-12 tuitioning
 - Granville-Hancock USD – K-12 tuitioning
 - Rochester-Stockbridge USD – PreK-6 operating/7-12 tuitioning
 - Sharon School District – PreK-6 operating/7-12 tuitioning
 - Strafford School District – K-8 operating/9-12 tuitioning
 - White River USD (Bethel, Royalton) – PreK-12 operating

¹⁴ E-mail of Matthew Fedders, Superintendent, to Daniel M. French, Secretary, October 24, 2022.

- The State Board unilaterally redrew the boundaries around two smaller SUs to create the WRVSU. The new SU became operational on July 1, 2016.
- The WRVSU was in the early phases of transitioning and adjusting to its newly enlarged SU structure when Act 46 encouraged school districts to merge into more sustainable governance structures. Pursuant to that Act, eight school districts within the WRVSU merged to create four unified union school districts, each of which has been operational since July 1, 2018.
- Due to ongoing opposition from some members of the community, transition to the new governance systems has been difficult and time-consuming. Nevertheless, the SU Board has worked to unify the member districts by, e.g., negotiating and adopting coordinated policies and procedures, calendars, curriculum, professional development, and a standards-based report card. In addition, it recently negotiated a multi-year, unified contract for the professional staff employed in all of its districts.
- The WRVSU reduced and restructured its administrative offices both in response to the State Board-mandated SU merger and also to address significant financial difficulties.
- Both the current workload of the central office staff and geographic circumstances make it likely that the WRVSU could only accommodate the addition of the LSD by employing additional staff and by entering into separate contracts for certain services.
 - The WRVSU superintendent testified that it would be impossible for the current three-member business office to assume responsibility for a seventh district without hiring at least one additional employee.
 - The WRVSU shares staff who provide PT, OT, SLP, and EE services among clusters of schools that are no more than 20 minutes apart. It would be difficult if not impossible to include the LSD in such arrangements.
 - The WRVSU currently contracts with a local community-based mental health provider for behavioral specialists, case managers, and other services. The WRVSU would need to develop a relationship with an additional provider in order to serve the needs of the LSD.
- The WRVSU estimates that its FY23 budget would increase by more than \$450,000 if the LSD is assigned to it. This number is attributable in part to salary and benefits for additional technical support, accountancy services, special education services, and food services employees. It also reflects the costs of contractual services for curriculum support, instruction, and assessment as well as for SLP, SLPA, PT, OT, and school-based clinician services.
- The WRVSU has projected that the additional FY23 costs will result in increases in the tax rates of the current six districts of between \$0.0054 and \$0.0198.

- As mentioned in connection with the CVSU, given the ongoing shortage of qualified educators, the need to provide services to LSD students could negatively impact those provided to students in the current member districts.

The LSD Board Chair provided oral assurances at the September 28 State Board meeting that the elementary school is “not a school that will burden a superintendent’s time.” She stated that the district is prepared to assume responsibility for the provision and management of “transportation, food service, technology, elements of special education, and other[.]” services to the elementary school. In addition, she noted that “technology enables engagement, communication, and supervision from a distance.”

Even if well-founded, these assurances ignore the legal and professional obligations under which an SU, as the LEA, operates. As the CVSU superintendent observed on September 28, the statutes do not speak of adjusting supervisory boundaries in order to provide “adequate” supervision, but rather of “reasonable”¹⁵ supervision. The CVSU and WRVSU superintendents opined – and I concur – that reasonable supervision requires the regular, on-campus presence of, at the very least, the superintendent, the curriculum director, the director of special education services, the business manager, and the facilities/maintenance director.

Given factors such as the travel times between the LSD and the two SUs, the small size of the central office in both SUs, the declining student population in Lincoln, and the future inability of the LSD to control or mitigate its grade 7-12 tuitioning costs or special education expenditures, it is doubtful that the LSD’s membership in either SU would, as the LSD Board Chair suggested, “allow savings to be incurred” by the SU or result in “a net positive” financially for the SU or its member districts.

Further, even if SU costs are allocated in a manner that mitigates the financial impact on existing member districts, the CVSU or WRVSU could meet its obligations to the LSD only by substantial initial and ongoing work to integrate the LSD into the current, newly-stable SU system. For example, assignment of the LSD to either SU would require the SU Board to revisit and potentially re-negotiate its newly coordinated policies and procedures, calendars, curriculum, professional development, and standards-based assessments.

In addition, assignment of the LSD to either SU would necessitate negotiations to integrate employees directly serving Lincoln students into a unified contract with the current SU and district employees who are in both cases operating under recently-negotiated, SU-wide collective bargaining agreements. If, as both superintendents stated, the salary schedule for MAUSD staff in Lincoln is substantially higher than that for SU and district employees in the CVSU and WRVSU, then negotiations will be difficult and could reasonably be expected to result in negative financial consequences and/or unfavorable staffing outcomes.

Neither available placement is a good option and it is difficult to determine which of the two would be better than the other:

¹⁵ 16 V.S.A. § 261(b)(3).

- Although the CVSU is a relatively new entity and the current superintendent has served in the role for a brief time, the business office is experienced and SU operations and relationships are efficient and relatively stable. The very stability of the SU might suggest it is in a good position to assume responsibility for a new district. On the other hand, the addition of the LSD has the potential to de-stabilize a system that is currently working well after voluntarily performing the hard work of unification in response to the State goals as articulated in Act 46¹⁶.
- The WRVSU has spent over seven years working to unify both a merged SU and also a majority of the member districts within it. Many of the WRVSU administrative staff are new, but they demonstrate a strong commitment to creating a cohesive and effective student-centered system. The SU has achieved a high level of consistency and stability despite vocal community opposition. The WRVSU's demonstrated ability to bring a large and diverse group of communities together might suggest its ability to successfully absorb the LSD as a new member. Conversely, requiring the WRVSU to assume responsibility for one more district at this time has the potential of impeding and even destroying recent progress made in response to the mandated SU merger and the voter-approved unification of school districts in response to Act 46.

Although the State Board has an obligation to determine the manner in which SU services will be provided to the LSD, that obligation does not eliminate the State Board's responsibility to consider the impact upon the CVSU, the WRVSU, and their current member school districts. That is, the State Board's responsibility to draw boundaries in a manner that "affords increased efficiency or greater convenience and economy and to facilitate prekindergarten through grade 12 curriculum planning and coordination" is not based solely upon whether the SU boundaries provide "increased efficiency" and "greater convenience" for the LSD and its students.

In neither SU would the addition of the LSD increase efficiencies, improve the ability to share resources, or enhance the provision of educational opportunities for the SU itself or the districts currently within the SU. In fact, the CVSU and the WRVSU could adequately provide SU services to the LSD only by assuming new obligations in an unfamiliar area of the State, employing additional staff, and increasing the overall SU budget – all of which would not only impact the operational efficiency and financial cost of operating the SU, but could negatively affect students in the current member districts by diverting personnel and other resources to the LSD and its students.

¹⁶ This observation is not based on the Paine Mountain Board's stated intention to withdraw from the SU if the LSD is assigned to it because the State Board has sole authority to determine whether the Paine Mountain School District will or will not remain within the SU.

C. Creation of a new SU to Serve the LSD and the MAUSD

In Act 46, the Vermont Legislature declared its intent “to move the State towards sustainable models of education governance” by encouraging and supporting local decisions and actions that:

- (1) provide substantial equity in the quality and variety of educational opportunities statewide;
- (2) lead students to achieve or exceed the State’s Education Quality Standards, adopted as rules by the State Board of Education at the direction of the General Assembly;
- (3) maximize operational efficiencies through increased flexibility to manage, share, and transfer resources, with a goal of increasing the district-level ratio of students to full-time equivalent staff;
- (4) promote transparency and accountability; and
- (5) are delivered at a cost that parents, voters, and taxpayers value.¹⁷

The Legislature stated that the “preferred education governance structure in Vermont” is a school district that:

- (1) is responsible for the education of all resident prekindergarten through grade 12 students;
- (2) is its own supervisory district [i.e., a single-district SU];
- (3) has a minimum average daily membership of 900; and
- (4) is organized and operates according to one of the four most common governance structures¹⁸

The MAUSD is a unified union school district that serves as its own supervisory district – i.e., a “preferred structure.” It was created by a vote of the electorate of each potentially merging district – including Lincoln voters – on November 8, 2016 and became fully operational on July 1, 2017. The MAUSD currently consists of the Towns of Bristol, Monkton, New Haven, and Starksboro, although it remains responsible for students residing in Lincoln until July 1, 2023. The MAUSD provides PreK/K-6 education in five buildings and grades 7-12 in a centralized secondary school building.¹⁹ The MAUSD reported a K-12 ADM for FY22 of approximately 1,292, of which 171, or 13%, was attributable to students residing in Lincoln (77 in K-6; 94 in grades 7-12).

¹⁷ Act 46 (2015), Sec. 2.

¹⁸ Act 46, Sec. 5.

¹⁹ One of the five elementary school buildings is located in Lincoln.

On November 8, 2022, the MAUSD voters declined to approve creation of a new Addison North School District by merging with the Addison Northwest School District (“ANWSD”)²⁰, a unified union school district consisting of Addison, Ferrisburgh, Panton, Waltham, and Vergennes. The voters of the ANWSD also voted not to approve creation of the new district.²¹ As a result, unless petitions to reconsider are filed and the result is overturned in both districts, the MAUSD would continue to operate as a unified union school district serving students residing in four towns and operating as its own supervisory district. In light of the November 8 results, this memo does not consider the creation of a new SU to serve the LSD and a new Addison North School District, although the analysis would be substantially similar to the analysis of creating an SU to serve the LSD and MAUSD.

Unlike the CVSU or WRVSU, the MAUSD and its predecessor districts and SU have long been responsible for the education of students residing in Lincoln and have deep ties to the Lincoln community. Central office staff is intimately familiar with the accounting software, student information system, and employee benefits information in Lincoln. MAUSD special educators provide services to Lincoln students and its special education and curriculum coordinators oversee the integration of the curriculum throughout all the schools, including the Lincoln Community School.

Despite this familiarity, neither the MAUSD nor its predecessor districts and SU have any experience with the unique issues that arise when special education is provided to a student for whom a district pays tuition. Rather than providing services directly to students, as the MAUSD (and its predecessors’) staff are accustomed, a tuition-paying district must negotiate for the provision of special education services and the supervision of service delivery through written agreements between the tuition-paying district and the school attended by the student(s). If a new SU is created to serve the MAUSD and the LSD, then – because special education services for tuitioned students would be coordinated and supervised by the SU – these new duties would fall on a central office staff with no experience performing them.

Moving to broader considerations, the MAUSD was among the first “preferred structure” created after enactment of Act 46 and has been operating as its own SD for over five years. The MAUSD reported at the September 28 meeting that it has exceeded the educational and financial benchmarks it set for itself prior to becoming operational.

It is difficult to imagine any scenario in which imposing a multi-district SU structure around the MAUSD would serve the State’s interest in promoting the five goals outlined in Act 46 and recently enacted into law as 16 V.S.A. § 701 or would lead to “increased efficiency or greater

²⁰ The ANWSD was created by a vote of the electorate on March 1, 2016 and became fully operational on July 1, 2017. The district currently operates two elementary schools, one middle-high school, and a trauma-sensitive school that focuses on restorative practices for students from throughout the region. The ANWSD reported an FY22 ADM of approximately 835 in K-12, plus an additional 71 PreK students.

²¹ Although the ANWSD-MAUSD study committee named the LSD as an “advisable” district pursuant to § 708(b)(2), the LSD Board chose not to warn the potential merger and its voters did not vote on the question.

convenience and economy” or “facilitate ... curriculum planning and coordination” for the union school district.

Further, if the State Board were to create a new SU that included the MAUSD, the State Board would be extinguishing a “preferred structure” and moving away from the Legislature’s stated objective – and would be doing so solely to accommodate the voters in a town whose students represent approximately 13% of the MAUSD’s total ADM, K-12.

Depending upon the circumstances, the expansion of an existing multi-district SU has the potential to positively affect efficiencies, workloads, and financial costs – and it equally has the potential to negatively affect them. In contrast, creation of a new SU around a previously self-contained unified union school district cannot help but result in undesirable outcomes for the union school district in the form of decreased efficiencies, convenience, and economy, which are likely to result in increased tax rates that potentially affect educational opportunities.

As stated above in connection with the CVSU and WRVSU, although the State Board has an obligation to determine the manner in which SU services will be provided to the LSD, that obligation does not eliminate the State Board’s responsibility to consider the effect upon the other districts – and their students – impacted by the decision.

D. Designation of the LSD as Its Own Supervisory District

The State Board has also asked whether it should declare the LSD to be an SD that performs for itself all of the “administrative, planning, and educational” services that an SU is statutorily required to provide. The relevant statutory provision includes two requirements. To be an SD, the school district must (i) be organized to provide for the education of its students in PreK through Grade 12 and (ii) be “large enough to support the planning and administrative functions of a supervisory union.”²²

The LSD meets the first criterion.

As to the second criterion, the statutes do not define the minimum size of an SD or identify a set of circumstances that indicate a school district is “large enough” to perform the duties of an SU.

Although Act 46 did not impose a required minimum ADM for SDs,²³ the Act identified the “preferred education governance structure in Vermont” to be an SD with an ADM of at least 900.

In fiscal year 2022:

- Nearly all SDs in the State – including both unified union school districts and single-city districts – reported a K-12 ADM of approximately 1,000-2,000.
 - Three SDs reported a K-12 ADM exceeding 3,000.
 - Five SDs reported a K-12 ADM below 1,000, with one reporting an ADM of 640.

²² 16 V.S.A. § 261(c).

²³ To the extent that Act 46 required a minimum ADM, it was solely in connection with whether a newly merged district would be eligible for the tax rate reductions and other transitional support available through one of the Act’s voluntary incentive programs.

- Most multi-district SUs similarly reported a total K-12 ADM of 1,000-2,000.
 - Seven SUs reported an ADM below 1,000, with 428 being the lowest.

Size matters not only in terms of efficiency, and therefore cost, but also in connection with an SU/SD's ability to attract and retain people with sufficient expertise to perform the duties of an SU. As mentioned above, an SU/SD is responsible for a broad range of highly technical duties, from financial and student data management to the provision and oversight of special education services.

With a FY22 ADM of 171, K-12, it is important to consider whether the LSD would be too small to perform an SU's duties in an efficient and effective manner and whether the LSD is a desirable enough system to attract and retain qualified administrative staff.

As mentioned above, because Lincoln's self-selected representatives and their legal counsel chose to forego the process provided in Act 176, Sec. 6, neither the State Board nor the Agency has had an opportunity to review any details of the LSD's plans to assume its responsibilities as a school district on July 1, 2023 – either as a member of a new or existing SU or as a district that is responsible for its own SU services. Instead, we are forced to rely upon publicly available data and the LSD's own representations.

The LSD claims that due to its small size, designating the district as its own SD would “contravene” the State Board's statutory authority to do so.

It is worth noting, however, that the LSD believed that an SU serving the LSD and the RSD would have been sufficiently large to meet legal obligations, despite the fact that the RSD would have added only an additional 73 K-12 students to the total served by the SU – for a total ADM in the LSD's proposed SU of 244 (using FY22 numbers).

In addition, at the State Board's September 2022 meeting, the LSD Board Chair stated repeatedly that the district was so well-run that it was unlikely to need significant levels of supervision or assistance if assigned to a current multi-district SU. For example:

“Lincoln has experience in and is prepared to assume responsibility for providing services that may be more efficiently managed at the district level, be it transportation, food service, technology, elements of special education, and others.”

“Lincoln Community School is a well-run, highly-regarded K through 6 school, with stable staffing, an experienced, creative, and resourceful principal who has been at the school for 30 years, with the focus on the highest quality of leadership, educational opportunities, and financial efficiency. It is not a school that will burden a superintendent's time.”

“Lincoln is fully prepared to take on responsibility for managing the program [(e.g., the provision of transportation, food service, or special education services)] if they cause inefficiencies in delivery for the supervisory union or if they cause the need for the supervisory union to hire more staff.”

Further, also at the September 2022 State Board meeting, the LSD Board Chair repeatedly assured the State Board of the LSD's sound financial position. The Chair noted that the LSD was

“larger, more stable, and arguably [more] financially sound” that the RSD. The State Board had designated the RSD as its own SD in January, 2022 and, at the time of the September State Board meeting, that designation was still in effect.

The LSD Board Chair also clarified that most of the nine SUs identified in the district’s letter of September 1 were listed as potential SUs from which the LSD might purchase services, and not as potential SUs to which the LSD could be assigned.

Although the LSD has stated that it is not large enough to support the planning and administrative functions of a supervisory union, its Board appears to believe that it is capable of operating primarily as a self-contained entity within a larger SU and had begun to consider contracting for some services from a list of neighboring SUs.

IV. Conclusions and Recommendation

In May and again in July, Lincoln representatives stated the intent to create a new SU with the Ripton School District and a then-possible new Starksboro School District. They confirmed that the LSD would not later request that it be assigned to an existing multi-district SU or to a new SU to serve the LSD and the MAUSD. Now, the LSD argues that changed circumstances make those two scenarios the only viable alternatives.

None of the options available to the State Board are good.

First, as discussed in more detail above, the State Board cannot ignore the needs of other potentially impacted entities when determining whether and how to draw or redraw SU/SD boundaries. The decision cannot be made by looking solely at what is best for one group of students at the expense of all others in the SU, the region, or the State as a whole.

Rather than increase efficiencies, improve the ability to share resources, or enhance the provision of educational opportunities, the assignment of the LSD to the CVSU or WRVSU or the creation of a new SU with the MAUSD would have the opposite result – and would likely negatively impact opportunities and services available to students in the other member districts.

Further, the State has a legitimate interest in ensuring that districts that did the hard work requested of them in Act 46 are not undermined or destabilized – regardless of whether that work resulted in a “preferred structure,” such as the MAUSD, or in an enlarged SU with multiple newly merged union school districts, such as the CVSU and the WRVSU.

Second, as also discussed above, there is no statutory minimum size for an SD. While FY22 ADM numbers for SDs are generally between 1,000 and 2,000, five SDs reported a K-12 ADM below 1,000. One SD currently has an ADM of 640. Most multi-district SUs similarly reported a combined K-12 ADM of 1,000-2,000, but seven SUs reported an ADM below 1,000, with 428 as the lowest number. The LSD itself urged creation of a multi-district SU that, with the addition of RSD students, would have had a FY22 ADM of fewer than 250 students.

Although an ADM of 900 or greater is identified as the preferred size for a supervisory district and although it may be arguable that some of the current SDs and SUs are not of an optimal size, nothing in State law defines 900 – or any other number – as the base-line for the State Board to designate a school district to serve as its own SD. Further, there is no guidance, process, or mechanism in law by which to determine if a school district is “large enough” to

perform SU duties on its own behalf. Given the variability of ADM, governance structure, operating and tuitioning patterns, and geography – although less of a patchwork than before Act 46 – it is questionable whether it would be possible to identify a uniform size that would be consider “large enough” for all regions of the State.

As a result, there is nothing in law that precludes the State Board from creating an SU with a combined ADM of 244 – as the LSD originally requested – or from designating a school district with an ADM of 171 to serve as its own SD.

Ultimately, however, the State has an interest in ensuring that its delegated authority – such as the provision of SU services to a school district – can be performed in a manner that has a reasonable likelihood of supporting success.

In the case of a very small district such as the LSD, designation as an SD could be responsibly accomplished through a combination of the district providing the SU services which it is able to provide and contracting with a neighboring SU or SD to provide the remainder. Not only is contracting for some services a reasonable solution under the particular circumstances, but it is explicitly authorized in Vermont statutes.²⁴

Although this memo does not advise the State Board to require any SD/SU to enter into a contractual arrangement to provide services to the LSD, the State Board may wish to encourage the LSD to initiate these conversations with the MAUSD. As the LSD Board Chair observed:

- Lincoln is “part of the culture and fabric” of the MAUSD.
- “Lincoln Community School is currently receiving SU services as part of MAUSD and continuing to receive these services ... would arguably be a relatively smooth transition.”
- Students and programs at the Lincoln Community School are already part of the MAUSD “data and information systems.”
- “Alignment of teacher contracts already exists.”

The State Board has an obligation to consider what system of providing SU services is in the best interest of the State. By determining this, it does what is best for all students.

Therefore, the Secretary recommends that the State Board designate the Lincoln School District as its own supervisory district pursuant to 16 V.S.A. § 261(c) and that the District fulfills its responsibilities through a combination of providing its own services where possible, and contracting for services where it would be more efficient or effective, pursuant to 16 V.S.A. §§ 261a(b) and 267.

V. Transitional Considerations

There are several transitional considerations that the State Board, the LSD, and a new or existing SU may face in the coming months. For example:

²⁴ 16 V.S.A. §§ 261a(b) and 267.

- If the LSD is assigned to either the CVSU or the WRVSU, or if a new SU is created in which the LSD is a member district, then it is likely that the employee transition provisions of *both* 16 V.S.A. § 1802 (creation of or expansion of an SU) and § 1804 (withdrawal from a union school district) would apply. The Agency has not analyzed the interplay of these two statutes and does not know if there are conflicts that could only be resolved by the Legislature.
- If the LSD is assigned to either the CVSU or the WRVSU, then the State Board may wish to authorize the LSD to appoint members to sit on the SU Board immediately, where they would serve as non-voting members until July 1, 2023.
- If a new SU is created in which the LSD is a member district, then the State Board may wish to establish a process and timeline by which the LSD and the other member district would appoint members to a new SU Board and convene the new SU Board’s organizational meeting. In addition, it might be important to specify the nature and scope of the SU Board’s authority to make decisions as it prepares to become operational on July 1, 2023.
- If the LSD is assigned to either the CVSU or the WRVSU, or if a new SU is created in which the LSD is a member district, then the State Board may wish to consider whether to exercise its independent authority under 16 V.S.A. § 719(c) to adjust the SU board representation required by § 266 “to more fairly and accurately reflect the number of students for which each district is responsible and the grades for which the district operates a school or schools.”