June 7, 2018

To the State Board of Education,

Act 46, Section 9 defines Alternative Governance Structure (AGS) proposals as those with "a governance structure different from the "preferred" structure identified in Sec. 5(b)". Section 9 continues to describe how these proposals may include the possibility of retaining a district's independent governance structure. Quite oddly, then, even though Sections 5 and 9 are entirely different options, actually defined by their difference from one another, the Acting Secretary's Plan uses the concept of "preferred" from Sec. 5 as criteria for Section 9 proposals. Using circular reasoning, the Plan denies several Section 9 proposals—proposals which are by definition not "preferred"—*because* they are not "preferred".

The Legislature acknowledged that Act 46 should not be 'one size fits all,' that not all mergers work everywhere, and therefore created the Section 9 opportunity. The law states that proposals had to demonstrate that the five Goals of the law could be met or exceeded. But this Plan raises the bar and states that that's not enough, because the proposals essentially have to be "preferred" even though the law allows non-preferred models, and we are supposed to be talking about non-preferred models. In my district's case, the Plan barely addresses the factual information in the proposal, asserting it doesn't need to, because 'even assuming our contentions are true that we met all the Goals,' it's not enough to "overturn the legislative presumption that a UUSD is the 'preferred' means". The way the word "best" is employed furthers this tautology, with the Plan conflating "best" with "preferred" throughout.

Within this framework, allowing districts to even apply for Section 9 governance as single entities no longer makes sense. Why outline an avenue of compliance that cannot be deemed best and therefore cannot be approved unless its own criteria are given an "override"? The Legislature wouldn't pretend to create an opportunity that was actually an impossible hurdle, would they? This interpretation is nonsensical, and incredibly dismissive of both the care Legislators took to ensure flexible options, and the time that so many communities have put into developing proposals.

Despite the fact the AOE has imposed higher standards on AGS proposals, Section 20 of Act 49 calls on the SBE to judge Section 9 proposals without imposing "more stringent requirements," than Section 5 proposals. The fact is that "preferred" mergers were not subject to an equivalent challenging AOE treatment. The Secretary's Plan is being given to you as a supposedly objective analysis that will help you weigh AGS proposals, but how can the SBE determine what is best, if the data we were tasked with providing in order for that judgement to be rendered has been considered not relevant to the proposal? This circular way of defining terms and subsequent creation of an impossible standard—not in the law—furthers this imbalance.

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