

10. The Windham Elementary School District (NMED)

The Windham Elementary School District is the sole NMED in the West River MUUSD, located in the Windham Central SU. The MUUSD assumes full responsibility on July 1, 2019 to provide for the PreK-12 education of students residing in Brookline, Jamaica, Newfane, and Townshend, and for the grade 7-12 education of students residing in Windham. The Windham District remains an independent town district organized to provide for the PreK-6 education of its resident students.

The Windham District has a K-6 ADM of 15 student in FY 2018. The MUUSD has a K-12/7-12 ADM of 452.91 in the same fiscal year. The SU, which comprises five districts (the Windham Elementary District, the MUUSD, the River Valleys USD, the Marlboro School District, and the Stratton School District), has a total ADM of 868.76.

The Windham District's K-6 student population has fluctuated over the last five fiscal years: 14, 20, 16.87, 14, and 15 in FY 2014 through FY 2018, respectively. Due to small enrollment numbers, these fluctuations have a significant impact on the tax rate from year to year. A larger student base provides tax rate stability, all else being constant.

The Section 9 Proposal, however, estimates that the ADM will more than double in the next five years when it expects that an additional 18-20 children will enroll.

The Windham voters rejected creation of a UUSD on March 7, 2017 as follows:

66 Yes

74 No

1 Blank or Spoiled

District's Sec. 9 Analysis and Proposal

The Windham District wishes to remain a single-town elementary school district in the Windham Central SU. A survey conducted after the voters rejected the merger proposal indicated that the community's top three priorities are: maintaining high quality, preserving local decision-making; and continuing to educate the youngest students close to home.

The Section. 9 Proposal explains that the many, varied educational opportunities offered at the schools are due to "close relationship between local School Board members and the larger community, emphasizing the need to maintain our local School Board." Many, such as after-school ukulele lessons, are provided free of charge. In addition; "in, at least, two instances, children have come to WES with a special ed. label and graduated without it." There is little staff turnover at the school and there has not been a vacancy on the school board for "35 years or so." It is impossible to report SBAC or other assessment data due to the Windham District's small size, although the district reports that aggregated data show a need for improvement in math and a high level of proficiency in language arts. The Windham District did not identify any benefits in a unified governance system.

Much of the Proposal and the April 10 Conversation focused on reasons that the community should be considered geographically isolated, including explanations regarding altitude, steep roads, and often perilous driving conditions. The Windham District believes it is likely that full PreK-12 membership in the unified district could require parents and other Windham

community members to travel great distances on bad roads in inclement weather to participate in school board meetings, describing that possibility as “not being convenient for folks.” The district is also concerned that the Windham community’s voice would be lost on a large, unified board.

While the Windham District focuses in part on these types of participation concerns, the district seems to be particularly fearful that the Windham Elementary School will close if the district assumes full membership in the unified district. At the Conversation, the statement was made that the Windham Elementary School has a “target on [its] back.” The Windham District believes that the MUUSD is considering closing a school and, although the general, anecdotal understanding is that the discussions are focused on another elementary school in the SU, the Windham District is concerned that unification will lead to closure of the Windham Elementary School instead or as well.

For more details, see the district’s Snapshot at Appendix F; common data points at Appendix G; and the Study Committee’s Merger Report and proposed Articles of Agreement as approved by the State Board, which can be accessed through the [School Governance / Merger Activity webpage](#). The Windham District provided paper copies of its Section 9 Proposal for the Secretary and all State Board Members. As it did not submit an electronic copy of proposal, contact the district to review a paper copy.

Secretary’s Discussion and Proposal

Under Act 46, a UUSD that is large enough to be its own SD is the “preferred structure” for education governance in Vermont. That is, the Legislature has deemed a unified district to be the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner.

Act 46 acknowledges that there are regions of the State where it may be necessary for the statewide plan to “include alternative governance structures . . . , such as a supervisory union with member districts or a unified union school district with a smaller average daily membership.” Nevertheless, the Legislature limits the State Board’s authority to include SUs with multiple member districts in the statewide plan by declaring that the “State Board **shall approve** the creation, expansion, or **continuation** of a supervisory union **only if** the Board concludes that this alternative structure:

“(1) is the **best** means of meeting the [five Act 46 Goals of opportunity, equity, and efficiency] in a particular **region**; and

“(2) ensures transparency and accountability for the member districts and the public at large . . .”

Therefore, Vermont law requires the State Board to look to the entire region when making its determinations, and not just at the possible consequences of merger on any one of the potentially merging districts.

In the Section 9 Proposal and during the Conversation, the Windham Board noted that the community voted against the proposal to join the unified district and that the majority of respondents to a post-vote survey indicated a strong preference for preserving the current

local decision-making structure. Merger is not “impossible” or “impracticable” because a community wishes to maintain its current governance structure and decision-making authority. The Legislature determined that a UUSD that is its own SD is the governing structure most likely to meet the educational and fiscal goals of Act 46 in a sustainable manner. The Legislature requires the State Board to merge districts into the UUSD structure where necessary to create a sustainable entity. The law does not contemplate a departure from this goal based on community sentiment. Community opposition does not make merger “impossible” or “impracticable,” although it is important in any merged district for both the unified board and the townspeople to take the time to build trust, develop new habits for working together, and embrace and develop a shared and coherent vision.

It is also worth noting that a school board is charged with making decisions that are best for its students and its taxpayers. It is understandable if a school board endeavors to implement the will of the community.⁵¹ In contrast, Act 46 and longstanding statutory law require the State Board to decide what is best for the district, the region, and the State – and, given the statutory purpose underlying the State Board’s existence, that means the State Board must focus on what is best for the education of the State’s children.

In addition to survey results indicating a community preference for local decision-making, the Windham District’s Section 9 Proposal and Conversation also expressed concern that the local voice of such a small town would be lost on a large unified board. Inherent in the desire to maintain local decision-making authority and fear of losing “voice” is the premise that a small, local board is the best way to ensure responsiveness, transparency, accountability, and fiscal responsibility and that a centralized board, unified budget, and Australian balloting are not. It is understandable that community members would mourn transition from local decision-making and a school-centric budget, which is amended and voted on “from the floor,” to a multi-school budget developed by a unified board and decided by Australian ballot. Given the Legislature’s presumption that a UUSD with centralized decision-making is the best way to achieve all the goals of Act 46, including transparency, accountability, and fiscal efficiency, the shift to a unified board and Australian ballots is not a reason to preclude the State Board from requiring merger. In addition, given the extremely small size of the Windham District, it is interesting to note that even under the predominantly Town-by-Town Proportionality Model adopted by the West River MUUSD, the number of seats allocated to each town are not remarkably disparate (two towns with 1 member each, two towns with 2 members each, one town with 3 members, plus 2 totally at large members).

Much of the Windham District’s argument against full PreK-12 merger is based upon its assertion of geographic isolation due to both distance and treacherous driving conditions. The Windham District worries that these factors will prevent citizens from attending unified board meetings and parents from participating in district-wide events located in other school buildings. The geographic concerns also factor heavily in connection with the community’s fear that full PreK-12 membership will result in closure of the Windham Elementary School.

⁵¹ It is worth noting, however, that there were very few votes separating the favorable and unfavorable ballots. In addition, although the statement was made here and in other districts that anecdotal post-vote conversations revealed that individuals who had approved the merger proposal did so because they hadn’t understood the consequences of their vote, there is nothing to suggest that votes of disapproval weren’t similarly based upon misunderstanding or misinformation.

Specifically, the Windham District maintains that it would not be safe to transport small children to other locations if the UUSD were to close its school.

Although the Legislature indicated that, in enacting Act 46, it was not its intention to close small schools, neither did it premise merger on keeping every school within the new district open beyond the first four years. Nevertheless, there are many reasons that closure of the Windham Elementary School seems unlikely at this point. If travel between the Windham Elementary School and the nearest elementary school is as treacherous as the Windham District contends, then it is difficult to imagine that a unified board would consider closing the school.⁵² Alternatively, if the drive is not deemed to be too treacherous – or is not treacherous for some months of the year – then, given the district’s conviction that its school offers extraordinary opportunities not available elsewhere, it seems likely that Windham will become a destination for other elementary school children, either through the unified district’s full elementary school choice program or on a field-trip or other point-in-time basis.

It is also significant that the MUUSD’s voter-approved articles of agreement contain some of the most stringent provisions regarding building closure in the State, permitting closure of a school at any point in the future only if approved by the voters of the town in which the school is located. Because the original merger warning explicitly referenced this provision, the school closure protection language can be amended only by a favorable vote of the entire electorate and cannot be amended or repealed by vote of the unified board. In addition, the sense that Windham is being “targeted” for school closure seems to emanate primarily from a comment made nearly a decade ago by then-Commissioner Vilaseca. Finally, reported discussions regarding potential school closure have been focused on a building other than the one in Windham.

The Windham District also claims that the NewBrook Elementary School’s capital debt far exceeds the Windham District’s outstanding debt and is another barrier to merger. Basing a decision on debt levels is short-sighted, and – given the Legislature’s identification of a UUSD as the best means to sustainably achieve the Act 46 goals – should not be the sole or primary reason to prevent merger where it is otherwise the best alternative. Although assumption of a portion of one district’s capital debt may result in tax increases under the districts’ modeling, the increases may be mitigated by savings that could result from approaching the possibilities of merger in a creative manner. In addition, today’s district with little or no debt will tomorrow become the district that needs a new roof. In other words, long-term decision making should not be based on point-in-time circumstances. Finally, capital debt does not last forever, it is eventually paid off. Districts need to take the long view when determining

⁵² Although there is no need for the Secretary to dispute the contention of geographic isolation and treacherous driving conditions in order to reach her conclusions, it should be noted that the community regularly drive out of Windham in order to access employment, shopping, health care, and other services; parents currently transport their young children to Weston, Londonderry, and Newfane as there are currently are no programs in Windham; and students in grades 7-12 travel by bus to attend school in Townshend.

what will best serve their students, particularly in small districts with steadily declining populations, increasing budgets, or unstable tax rates.⁵³

Student assessments cannot be used to gauge quality in this tiny district. Not only is it impossible to report results, must less disaggregate them by poverty or special needs, but it is also impossible to rely upon any generalized statistics when a statement that, *e.g.*, 66% of the 3rd grade students meet State standards translates into 2 of the 3 students in that grade over a three-year period performed at that level.

The Windham District contends that PreK-4 merger would provide no benefits to Windham students and taxpayers, and might even threaten programmatic offerings at the school or raise taxes. Even assuming that this contention is true, it cannot be said that the merger would have no benefit for the region. But for the existence of the Windham Elementary District, there would be no need for the complex accounting mechanisms necessary to support an interrelated PreK-12/7-12 district and a PreK-6 district. In addition, the school located in Windham could become one in which other students in the region enroll through intradistrict elementary school choice or with which other schools could more easily share point-in-time programming. The ability to access Windham's staff, unique programming, and other resources would be simplified, and the unified district's workforce might become even more stable by converting part-time staff to full-time employees. Thus, the addition of Windham as a full PreK-12 member of the unified district has the potential to benefit the students and taxpayers in the other member towns of the district.

It is also not clear that merger has no potential to benefit the students and taxpayers of Windham and improve the school's chances of continuing to operate and offer vibrant programming opportunities. The Windham District's K-6 ADM has fluctuated during the last five fiscal years, hovering primarily in the mid-teens except for a spike to 20 students in FY 2015. Even if an additional 18-20 students enroll in the coming years as the Windham District projects – growing from 15 students to a projected 35 students – the Windham District would operate the 4th smallest K-6 school in the State (it is currently the smallest) and would be the 8th smallest district⁵⁴ in the state (it is currently the 2nd smallest). Given the State Board's current draft metrics for small school grant eligibility, it is questionable whether the district will continue to receive the ~\$40,600 annually in statewide education funds to support continuation of its programs. Larger governance structures have been shown to provide the flexibility needed to reduce budget and tax increases, even out tax rate fluctuations, and allow small or struggling schools to stay open and programs to remain intact or be expanded.

No facts have been presented that support a conclusion that merger is not "possible" or "practicable" in this instance, nor can the Agency identify any other facts that would do so.

In addition, the Windham Board's argument that maintaining its current structure is the "best" means for Windham to create a sustainable structure capable of meeting the Act 46

⁵³ The Windham District also cites the Leland and Gray Union High School District's existing debt, but the Windham District already shares responsibility for its repayment because it is a member of the union high school district.

⁵⁴ Including operating districts and tuitioning districts and all grade configurations, K-12.

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Goals is not convincing enough to overturn the Legislature's presumption that a UUSD is the "preferred" means of doing so.

Absent compelling evidence to the contrary in this particular instance, the Secretary defers to the Legislature's determination that a unified district is the structure most likely to meet or exceed the educational and fiscal goals of Act 46 in a sustainable manner -- even in regions where, as here, it will be necessary for the statewide plan to "include alternative governance structures ..., such as a supervisory union with member districts or a unified union school district with a smaller average daily membership."

Accordingly, the Secretary believes that the best means of meeting the Act 46 Goals -- for both the district individually and for the region -- is for the State Board of Education to merge the Windham Elementary School District and the West River Modified Unified Union School District into a single UUSD by requesting the MUUSD to accept the Windham District as a full PreK-12 member.

The Secretary trusts that the community's concern for the well-being of all their children will impel them eventually to embrace the opportunities of a unified structure and work together to improve educational opportunities and equity for all students in the region.