

## MEMORANDUM

TO: Wendy Palthey, Administrative Assistant, Town of Tunbridge  
FROM: Donna Russo-Savage, Staff Attorney  
SUBJECT: Withdrawal from / Dissolution of a UUSD  
DATE: December 31, 2020

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In an e-mail dated December 31, 2021, you asked a series of questions on behalf of the selectboard and voters of Tunbridge stemming from an anticipated vote to withdraw from the First Branch USD.

*The Agency's legal staff is happy to provide guidance regarding issues of education law, but only the town's/district's lawyer can provide it with legal advice.*

### **I. If the voters residing in Tunbridge vote in favor of withdrawing from the First Branch Unified Union School District (the "UUSD"), then what are the next steps in the withdrawal/dissolution process?**

Response: 16 V.S.A. § 724 ([link](#)) governs the process of withdrawal from a unified union school district ("UUSD") such as the First Branch USD. Although it appears to be a fairly recent statute, it is actually decades-old and is both unclear and incomplete. Members of the Legislature are aware of the need to clarify the process and provide more details.

The basic process – from a very high level view – is as follows:

1. The school district voters residing in one town within a UUSD ("Town A") vote to withdraw from the UUSD.
  2. If the Town A vote is in the affirmative, then:
    - a. The Town A clerk certifies the vote to the Secretary of State.
    - b. The Secretary of State records the certification and notifies the other town within the UUSD ("Town B") that the vote was in the affirmative.
  3. The Town B selectboard warns a vote for the school district voters residing in Town B on whether they agree to the withdrawal of Town A.
    - a. The Town B selectboard is required to warn the vote.
    - b. There is no statutory deadline by which the warning or the vote itself must occur – the Town B selectboard can determine the time period.
    - c. The vote must be by Australian Ballot.
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4. If the school district voters residing in Town B vote to approve the withdrawal of Town A, then the UUSD clerk notifies the Secretary of Education, who notifies the State Board of Education.
5. The State Board adds the matter to its agenda for consideration and potential action.
  - a. There is no deadline by which the State Board must add the matter to its agenda, consider the issues, or reach any conclusions.
6. At the State Board meeting(s):
  - a. The State Board will permit the withdrawal of Town A if it determines the students residing in Town A will have access to schools, either operated within Town A or to which tuition would be paid.
  - b. The State Board then “reconstitutes” the withdrawing UUSD member as a single-town school district organized to provide for the PK-12 education of the students residing in Town A. (see “e” below)
  - c. The State Board then determines whether “it is in the best interests of the State, the students, and” the remaining towns in the UUSD for the UUSD to continue to exist without the withdrawing town.
    - i. (If the State Board approves withdrawal of Town A, then - because there are only two towns in the UUSD – the State Board will automatically conclude that the UUSD must be dissolved.)
    - ii. The State Board declares that the UUSD is dissolved.
  - d. The State Board “reconstitutes” the remaining member of the UUSD as a single-town school district organized to provide for the PK-12 education of the students residing in Town B. (see “e” below)
  - e. Note that if the Town A voters OR the Town B voters intend for their own new town school district to provide for the education in a different manner than the way in which it is provided by the UUSD (in this case, operating K-8 and paying tuition for all other grades), then there would need to be a separate vote by the new town school district voters in the future, *after* the new town school district is up and running.
  - f. The State Board files its declarations with the Secretary of State, the town clerk(s), and the UUSD clerk.
7. The effective date of withdrawal AND the date on which the new town school districts become fully operational is:
  - a. the next July 1 following the State Board’s decision;  
OR
  - b. *“as soon thereafter as the obligations of the withdrawing district have been paid to, or an agreement made with, the union school district in an amount satisfactory to the electorate of each of the other towns and cities within the unified union school district.”* 16 V.S.A. § 724
8. During the period of time between the State Board’s declarations (that approve withdrawal and reconstitute the UUSD members as separate town-based school districts) and the date on which the new school districts will become fully operational:
  - a. The voters in both town districts will elect board members.

- b. The newly-elected school board of each new school district will prepare a proposed budget for presentation to the voters and will perform other functions so that the new districts are able to be fully operational on the operational date.
- c. The UUSD will continue to be responsible for the education of the students in both towns, including responsibility for operating all schools within the UUSD.

## **II. Will the two new single-town school districts “lose state funding”?**

Response: The financial consequences of withdrawal from and dissolution of a UUSD that come immediately to mind include:

1. If the UUSD is still receiving tax rate reductions under one of the merger programs in Acts 153, 156, 46, or 49 (and the related amendments), then the new town school district would not be eligible to continue to receive them.
2. If a small schools grant that was connected to the school was transformed into an annual, perpetual “Merger Support Grant” under one of the merger programs, then that grant goes away.
  - a. The new town school district would be able to apply for a small schools grant on an annual basis under the new criteria set out in 16 V.S.A. § 4015 ([link](#)) (note that the criteria is no longer based on size alone).
3. The Legislature removed the 3.5 % hold-harmless provision for rapidly declining student populations, so the town school district would no longer have the financial advantages that arise from so-called “phantom pupils,” which acted as a buffer to fluctuating tax rates pre-merger.

## **III. Does the Legislature have “plans to change the school dissolution policy from act 46 mergers”?**

Response: We are aware of conversations throughout the State and at State Board meetings that may cause the Legislature to consider aspects of the dissolution statutes. However – it is impossible for us to predict whether the Legislature will discuss or make changes to these laws in the 2021 legislative session or in future years.