

# **Act 46: Final State Plan Timelines & Default Articles of Agreement**

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# Final State Plan & Default Articles of Agreement

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- The Vermont State Board issued its Final Report of Decisions and Order on Statewide School District Merger Decisions on November 30, 2018.
- The Final Report includes default articles of agreement for each new union school district formed by the Final Report.
- The default articles of agreement govern the new union school district unless and until the district amends them.

# Immediate Tasks for Merged Districts

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- Each member district of the merged district must appoint two members to sit on the Transitional Board
  - Default is the Chair and Clerk of each board, unless other members are selected by a majority of the board
- Superintendent works with the Secretary of Education to draft the warning for and warn the organizational meeting of the merged district
  - AOE has template warnings available
  - Meeting must be warned between 30-40 days in advance –**December 28 deadline**
  - Meeting must be held by January 29

# Organizational Meeting Business

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- At the organizational meeting, the business conducted includes:
  - Transitional board is sworn in and begins duties
  - Voters decide if budgets will be voted by Australian ballot
  - Voters decide if elections will occur by Australian ballot
- First meeting of the transitional board must be called within 14 days of the organizational meeting (can occur on the same day as the org mtg)
  - Board chair and clerk must be elected at the meeting

# Other Immediate Tasks – Amending the Articles of Agreement

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- The boards of the merged district must decide whether to form an Amendment Committee to make changes to the default articles of agreement
- Composition of the Committee must be proportional based on equalized pupils and at least one of the members appointed by each board must be a current board member
- Any amendments proposed by the Committee must be approved by the full electorate of the new merged district on or before February 28, 2019

# Transitional Board Responsibilities

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- Warn special meeting of the voters to vote whether to amend the default articles, if a Committee is formed and recommends doing so
- Warn special meeting of the voters to elect initial members of the merged district board
- Prepare first draft of the budget to provide to the merged district board
- Perform any other duties required to facilitate the transition to the new district that must occur before the merged district board is elected

# Votes Required by July 1, 2019

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- Amend default articles of agreement (optional, must be done by February 28)
- Elect the members of the merged district board
- Approve a budget (recommended no later than May 1, 2019)
- Each of these votes must be preceded by a 30-40 day warning period

# Default Articles of Agreement



# Article 1 – Creation of New District

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- Creates the new union district, including a list of the forming districts, the temporary legal name of the new district, and a list of the resident students.

## Article 2 – Grades Operated

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- Specifies the grades operated and/or tuitioned in academic years 2019/2020 and 2020/2021.

## **Article 3 – Attendance/Restructuring**

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- Covers attendance at schools in academic years 2019/2020 and 2020/2021 and restructuring of grade configurations.
- In general, for academic years 2019/2020 and 2020/2021 each student in the grades for which the new union district operates multiple school buildings will attend the school that a student residing in that town would have attended in academic year 2018/2019.

## **Article 3 – Attendance/Restructuring**

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- Restructuring of grade configurations is not allowed for academic years 2019/2020 and 2020/2021.
- “Restructuring of grade configurations” means eliminating all classrooms for any grade or grades (pre-K through 12) operated at one or more schools and requiring children in the grade or grades to attend classrooms located in a different school.

## Article 4 – Closure of Buildings

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- Covers closure of school buildings during two time periods:
  - Academic years 2019/2020 and 2020/2021
  - Academic year 2021/2022 and after.

## Article 4

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- In academic years 2019/2020 and 2020/2021, the new district shall not close any school building conveyed to it by a forming district or cease using the building to provide direct education in at least one grade unless first approved by the voters residing in the town(s) in which the school is located.

## Article 4 – Closure of Buildings

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- In academic year 2021/2022 and after the new union district board shall not close any school building or cease using the building to provide direct instruction in at least one grade, unless first approved by the electorate of the new union district.

# Article 5 - Finances

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- Covers:
  - Indebtedness, including capital debt
  - Operating fund surpluses
  - Transfer of debt and funds



## Article 5 - Indebtedness

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- Requires the new district to assume all indebtedness that exists on June 30, 2019, including:
  - Capital debt (both principal and interest) of the forming districts.

## Article 5 – Operating Fund Surpluses

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- The new district assumes all operating surpluses, deficits, and fund balances of the forming districts that exist at the close of business on June 30, 2019.
- The new district is required to apply any reserve fund for the fund's specific purpose, if identified, unless otherwise determined through appropriate legal procedures.

## Article 5 – Transfer of Debt & Funds

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- The forming districts must transfer the debt and funds specified in Article 5 to the new union district on or before June 30, 2019.
- The transfer must be done in accordance with procedures and timelines established by the new union district board.

# Article 6 - Real/Personal Property

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- Covers real and personal property, including:
  - Transfer of real and personal property to new district
  - Subsequent sale of real property to town in which it is located, in any year in the future
  - Subsequent sale of real property conveyed by forming district that was a union district, in any year in the future

## Article 6 – Transfer of Property

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- Requires the forming districts to convey to the new district (for the sum of one dollar and subject to the encumbrances of record) all of their school-related real and personal property, including all land, buildings, and contents.

## Article 6 – Subsequent Sale

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- Subject to requirements relating to school building closure in Article 4, if the new union district board determines that the real property conveyed to it by one or more forming districts will not be used for direct delivery of education in at least one grade or for any other purpose related to the operation of the new district, then the new district shall offer it for sale to the town in which the real property is located.

## Article 6 – Subsequent Sale

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- Any sale to the town is subject to the following requirements:
  - For the sum of one dollar
  - Subject to all encumbrances of record
  - Assumption or payment of all outstanding bonds and notes
  - Repayment of any school construction aid or grants required by Vermont law.
  - Conveyance conditioned upon town using the real property for community and public purposes for a minimum of five years.

## Article 6 – Subsequent Sale

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- If town elects to sell real property prior to five years of ownership, the town must compensate the new district for all capital improvements and renovations initiated after July 1, 2019 and prior to the sale to the town.
- If town elects not to acquire ownership of real property, then the new district must sell the property pursuant to Vermont statutes and upon such terms and conditions as established by the new board.



## Article 6 – Subsequent Sale

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- Notwithstanding the above, and subject to any requirements relating to school building closure in Article 4, if the new union district board determines that the real property conveyed to it by a **forming district that was a union district on June 30, 2019**, will not be used for direct delivery of education in at least one grade or for any other purpose related to the operation of the new district, then the new district shall sell the property pursuant to Vermont statutes.

## Article 7 - Contracts

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- In academic year 2019/2020, requires new district to provide transportation, assignment of staff, and implementation of curriculum in a manner that is consistent with the contracts, collective bargaining agreements, and provisions of law that are in effect during that academic year.
- The new district must comply with 16 VSA Chapter 53, subchapter 3, regarding recognition of representatives of employees of the forming districts and the SU, if applicable.

## Article 7 - Contracts

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- In the absence of new collective bargaining agreements on July 1, 2019, the new district shall comply with the pre-existing master agreements.
- The new district must honor all individual employment contracts that are in place in the forming districts on June 30, 2019 until their termination dates. But if a forming district enters into a contract on or after November 1, 2018, then this paragraph applies only if the contract expires on or before July 1, 2020.

## Article 8 – Organizational Meeting

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- Requires voters of new district to hold an organizational meeting on or before January 29, 2019 on a date and at a location to be determined by the Superintendent.
- Superintendent must post notice of the day, hour, and place of the meeting in at least one public place in each town identified in Article 1(C) and publish it at least once in a newspaper circulating within the new district. Publication and posting must be made not more than 40 days and not fewer than 30 days before the date of the meeting.

## Article 8 – Organizational Meeting

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- The Secretary of the Agency of Education draws the warning for the organizational meeting.
- The Secretary or his designee calls the organizational meeting to order.
- The voters of the new union district transact the following business from the floor:
  - Elect temporary presiding officer and clerk of the new district from among the qualified voters of the district
  - Swear in members of the transitional board created in Article 9

# Article 8 – Organizational Meeting

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- Business (continued)
  - Adopt Robert's Rules of Order or other rules of order
  - Elect officers of the new district – moderator, clerk and treasurer
  - Determine a date and location for the first annual meeting of the new district and all subsequent annual meetings which shall not be earlier than February 1 and not later than June 1 in each year
  - Determine whether to vote on the new district's budget and all other public questions by Australian ballot

# Article 8 – Organizational Meeting

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- Business (continued)
  - Determine whether to elect members of the new union district board by Australian ballot
  - Determine and approve compensation, if any, to be paid to officers and members of the new union district board
  - Establish provisions for the payment of any expense incurred by the new union district before it becomes fully operational on July 1, 2019
  - Authorize the new union district to borrow money pending receipt of payments from the State Education Fund by issuance of its notes or orders payable not later than one year from date.

# Article 8 – Organizational Meeting

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- Business (continued)
  - Determine whether to authorize the Board of School Directors to provide mailed notice to residents of the availability of the Annual Report and proposed school budget in lieu of distributing the Annual Report and proposed budget
  - Address any other business determined to be necessary and advisable and warned as required in paragraph (A) of Article 8.



## Article 9 – Transitional Board

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- Creates a transitional board for the new union district consisting of individuals serving on July 1, 2018 as Chair and Clerk of the board of directors of each forming district, including the board of any forming district that is a union school district on that date.
- However, the board of a forming district may, by majority vote, designate another board member or members to serve on the transitional board.

## Article 9 – Transitional Board

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- Transitional board members serve until the voters of the new union district elect members of their initial board of directors as set forth in Article 10.
- Superintendent of the supervisory union of which a majority of the forming districts are members must convene the first meeting of the transitional board to occur **no later than 14 days after the organizational meeting.**

# Article 9 – Transitional Board

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- Agenda of the first meeting of the transitional board must include the election of:
  - One of their members to serve as chair of the transitional board
  - One of their members to serve as clerk of the transitional board

# Article 9 – Transitional Board

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- Purpose and authority of transitional board:
  - Serves as the new union district's school board
  - Performs all functions and has authority granted to:
    - The transitional board in paragraph (D) of Article 9 of the Articles of Agreement and
    - The new union district board in the Articles of Agreement and otherwise by law.

# Article 9 – Transitional Board

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- Specific duties of transitional board:
  - Prepare a draft of the proposed Fiscal Year 2020 budget of the new union district and provide it to the new union district board for consideration at its first meeting
  - Prepare for and warn the following items as one or more special meetings of the new union district:
    - A meeting of the new union district at which the voters shall elect initial board members as set out in Article 10
    - A meeting of the new union district which the Legislature has required to occur no later than February 28, 2019 at which the voter shall consider whether to approve any amendments to the default articles of agreement intended to be effective on or before July 1, 2019

# Article 10 – New Board

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- Initial representation on new union district board:
  - Composed of a total of eight individuals elected pursuant to the “Hybrid Model” of board representation, which the United States District Court for the District of Vermont has endorsed as meeting constitutional requirements of proportionality
  - Two seats on the board are allocated to each town identified in Article 1, with individuals elected to fill those seats by a vote of the electorate of the entire new union district

## Article 10 – New Board

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- Specifies length of term of initial board members and election processes if voters decide at organizational meeting to proceed by Australian ballot.
- Within fourteen days after the initial board members are elected, the superintendent shall: (1) arrange for their swearing in by the clerk of the new district or a town clerk within the district and (2) convene the first meeting of the initial members of the new board.

## Article 10 – New Board

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- Transitional board dissolves upon first meeting of the initial members of the new union district board
- At the first meeting of the new board, the members must elect a chair and a clerk of the board.
- Also at the first meeting of the new board, the members of the transitional board must present the draft Fiscal Year 2020 budget to the new union district board along with any supporting data.



## Article 10 – New Board

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- The new union district board must prepare and distribute a proposed Fiscal Year 2020 budget (academic year 2019-2020).
- The voters of the new district must vote, at a special meeting of the district that the board warns for that purpose, to appropriate the sums necessary to meet the district's expenses.

# Article 11 - Representation

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- Applies to representation on the new board on or after the new district's annual meeting in 2020
- New union district boards are composed of individuals elected under the “Hybrid Model” of board representation in the numbers and allocations set forth in Article 10(A) unless and until the voters of the new district amend Article 11.

# Article 11 - Representation

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- Except as provided for the election of *initial* members of the new board in Article 10(B), each new board member serves for three years or until his or her successor is elected and qualified.
- Each member of the new union district board who serves after expiration of the terms of the initial board members must be elected at an annual or special meeting of the new union district.
- Terms of office begin and expire on the date of the new union district's annual meeting.

# Article 11 - Representation

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- If the voters amend Article 11, the amendment must ensure that the terms of office are staggered as required by law.

# Article 12 – Commencement of Operations

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- New union district board has and shall exercise all of the authority that is necessary for it to prepare for full educational operations beginning July 1, 2019.
- On or before June 30, 2019, the new board shall perform all planning, transitional and other related duties necessary to begin operations of the new district on July 1, 2019.
- Each forming district remains responsible for educating its resident students until July 1, 2019.

# Article 13 – Dissolution of Forming Districts

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- On July 1, 2019, when the new union district becomes fully operational and responsible for providing for the education of its resident students, the forming districts shall cease all educational operations.
- Forming districts remain in existence for no more than six months for the sole purpose of completing audits or any other task the new district is legally unable to perform. They cease to exist when such business is completed or on December 31, 2019, whichever is earlier.

## Article 13 – Supervisory Union

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- Each new union district (that is not a supervisory district) is assigned to a supervisory union.
- If the new union district is designated a supervisory district then the new union district is assigned to an SU for the transitional period:
  - Example: Washington Central UUSD is going to be a supervisory district on July 1, 2019, but will be assigned to the Washington Central SU until July 1.

## Article 14 - Amendments

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- Provides a list of articles that cannot be amended by the electorate of the new union district, the elected board of the new district, the transitional board, or the electorate or board of any forming district except as expressly authorized by the General Assembly.
- Provides a list of articles that can be amended only by a majority of the voters of the new union district present and voting at an annual or special meeting.



## Article 14 - Amendments

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- Provides a list of articles that can be amended only if approved by the voters of each town identified in Article 1(C).
- Provides a list of articles that can be amended by the board of the new union district; provided, however, that the board may present questions to the voters, either in the board's discretion or upon a petition of the voters.

## Article 14 – Process for Amending

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- For amendments presented on or before February 28, 2019 – at a meeting warned by the transitional board pursuant to Article 9(D)(ii)(b), any proposed amendments to the articles of agreement shall be presented to the voters of the entire new union district pursuant to the process set forth in Act 46, section 10 as amended by Act 49, section 8(d)(1)-(2).
- 90 day period from date of issuance of statewide plan to form committee, draft articles of agreement for new district, hold at least one public hearing, take comments, and hold a vote.

# Article 14 – Process for Amending

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- For amendments presented to the electorate for a vote later than February 28, 2019:
  - At an annual or special meeting warned for the purpose, any proposed amendments to the Articles of Agreement shall be presented to the voters pursuant to the process set forth in 16 V.S.A. chapter 11.

# Anticipated Litigation - Considerations

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- The status of a lawsuit filed against the State of Vermont is unknown at this time
- Consult with your district's attorney regarding the best course of action on behalf of your district
- Districts that sign on to the lawsuit should also take steps to comply with the requirements set forth in state law and the default articles of agreement
- Failure to do so will mean more uncertainty for your district employees, parents, and students

# Resources to Support Your Work

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- Donna Russo-Savage at the Agency of Education  
[donna.russosavage@vermont.gov](mailto:donna.russosavage@vermont.gov)
- Act 46 Implementation Project Consultants
- VSBA Staff –Nicole Mace & Sue Ceglowski  
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