

A Primer on Navigating Changes to the RSU 12 School Consolidation Reorganization Plan

Introduction: The Sheepscot Valley Regional School Unit was created in late September 2008 by a *Consolidation Plan* (the “*Plan*”) incorporating a second round of revisions from the Commissioner of the Maine Department of Education. Scattered among the pages are references¹ suggesting that it be a document subject to revision by the members. Coincidentally, there are no references in State Statute² to allow changes in a school consolidation reorganization plan unless the approved plan itself contains such provisions.

In Section 3, “Method of Voting of Governing Body,” paragraph 5, is found a reference to changes or amendments to the *Plan*. That entire text is shown below (***with emphasis provided***).

5. A supermajority vote, consisting of at least 2/3 of the total number of votes of the **full RSU board** is required to **change or amend** this plan. The supermajority vote is required for **both the first and second readings of any proposed changes or amendments**. Any amendments of this plan must also be approved by a **majority of the voters in the Sheepscot Valley Regional School Unit**.

It’s important to understand the significance of at least two passages in the paragraph.

The board vote for approval is “...at least 2/3 of the total number of votes of the full RSU board...” and the operative word is “full.” The aggregate town votes are 11,106 which requires at least 7,404 weighted votes to be cast to satisfy the two-thirds requirement. Since only attending board members are able to cast their votes, the effect of an absent member is a vote in the negative on the question.

A plain reading of the text suggests questions dealing with change must be considered twice by the body and to result in a successful vote in each case to move the process along, although not directly stated. Paragraph five does not directly call for two readings of the proposal, however, the inference is clear.

Paragraph five does not prescribe a time limit in which to hold the first and second readings. Prudence and good electoral practice suggests prompt consideration to allow timely attention by the electorate. It is a “best practice” to schedule votes coincident with other electoral activity at the affected municipalities.

As footnote one (below) suggests, the *Plan* has been revised twice since the RSU has come into existence. The first revision, board member weighted vote by town, required by State Statute³, took place immediately after the 2010 decennial census. The prescriptive nature of state law precluded

¹ Page 17 of the Plan requires a review and potential change in the weights of votes after each decennial census is conducted and reported. Further it lays out a process for voting on proposed changes and amendments. Page 38 describes “Altering the Cost Sharing Formula” including a process to be used by the RSU for that to happen.

² Title 20-A, Sub Chapter 103-A, Regional School Units, is the appropriate reference.

³ Title 20-A, Section 1472-B and other applicable law.

anything but action by the district's ad hoc reapportionment committee and approval of the resulting submitted plan by the Commissioner of Education.

A second instance involved revision of the allocation of operating costs to towns. The initial consolidation committee, realizing limitations of the first cost sharing arrangement, restricted its use to the first three years of district operation, requiring consideration of alternatives for subsequent periods. The protocol to be followed in adopting a revision, found in Section 13-C, was remarkably similar to the reference in paragraph 5 on the first page. That process⁴ was scrupulously followed, the Board committee dealing with the revision held a public hearing, the Board voted to send the question to voters, and a district-wide vote resulted in adoption of the current funding methodology.

For those who find it helpful, here's information in a question and response format about changing or amending the *Plan*.

What is the significance of the *Consolidation Plan*?

The *Plan* addresses matters identified in statute about the district's reorganization efforts. The specific topics are found in Title 20-A, Section 1461, Paragraph 3A and 3B. Responses to the prompts were provided, approved by the Education Commissioner, consistent with state law, and the *Plan* has the equivalent force of law when governing the RSU.

May the *Plan* be changed or amended?

Yes. It's part of the *Plan* and is referenced earlier, on page 1.

How are changes in the *Plan* initiated?

Some happen because there are "triggers" built into the *Plan*. For example, weighted town vote amounts must be confirmed after each decennial census and the cost sharing plan must be reviewed every five years with the potential of making changes. Otherwise, the *Plan* document is largely silent on how changes are initiated. Typically requests for changes are presented to the district's Board of Directors.

Who may approach the Board with proposals for change?

The *Plan* is silent in that regard. Clearly representatives from participating municipalities have standing and are welcome to share their concerns. The form that requests take is not addressed in the *Plan*.

What may be amended or changed?

Only matters already contained in the *Plan* may be altered; making additions is not addressed. Any proposed changes must not be in conflict with existing law or rule.

What happens if the proposed change fails to achieve the necessary 2/3 number of votes at the first reading? Is there another attempt at passage?

The instructions require there to be two readings and successful passage requires 2/3 or more votes of the Board. Failing the first vote would resolve the question and not require it to be brought up a second time. *Robert's Rules* allows a motion for reconsideration at a subsequent meeting followed by a favorable vote. That would allow continuation to a second reading.

⁴ Pages 38 and 39 of the Reorganization Plan prescribe steps to be followed for Altering the Cost Sharing Formula.

Matters associated with “School Choice” are addressed in Section 13-D and Appendix 13-D of the *Plan* for all towns in RSU 12. In one form or another, all RSU 12 towns have some form of “school choice” for resident students.

While there have been some minor changes⁵, the following entries summarize the state of school choice at the various towns through the end of school fiscal year 2018.

Students in Grade 9 through Grade 12 in all seven towns:

- Students may attend any public or approved private school. When a private school tuition rate exceeds the maximum allowable tuition⁶, it will be the responsibility of the sending guardian or parent to pay the difference to the school. The RSU will pay up to the maximum allowable tuition for public secondary schools.

Students in Grades Pre-K through Grade 8:

- For Alna and Westport Students – Resident students may attend any public or approved private school. The RSU will only pay up to the maximum allowable tuition as published by the Department of Education. Any balance is the responsibility of the sending guardian or parent.
- For Chelsea, Palermo, Somerville, Whitefield and Windsor – Resident students may attend any RSU 12 school; those attending other public or private schools are by virtue of Superintendent’s Agreements. Parents are free to send their children to other schools at their own financial expense.

It should be noted that when entering the RSU, arrangements in place, especially in Chelsea and Alna were carried forward, or “grandfathered.” However, some practices described in footnote 5 have expired, so certain provisions continuing to be shown in the *Plan* are outdated.

Alna is seeking to change its “school choice” policy, has conducted a widely attended, multiple evening public hearing⁷, and received a favorable vote from the town’s electorate. Sixty-two percent of those casting ballots⁷ approved the following question which is the basis for the *Plan* change request.

Shall the Town of Alna’s school choice policy be amended so that after June 30, 2018, all Alna K-8 resident students will have the right to attend, at public expense, an public school of the parents’ choice at which the student is accepted, except that any child who is living in Alna as of June 30, 2018 and continues to live in Alna shall also continue to have the right, at public expense, to attend any public or private school of the parents’ choice at which the student is accepted?

If successfully adopted, *Plan* text would be revised to reflect the provisions in the Alna petition.

⁵ A contract between Chelsea and Augusta covering tuition at Cony High School has expired. The RSU has assumed paying the Insured Value Factor to certain private academies on behalf of attending Alna students, relieving parents of that burden. Both changes happened without amending textual references in the plan.

⁶ See Title 20-A, Section 5806.

⁷ The results of the town’s referendum were shared with the RSU 12 Board Chair by the Alna Town Clerk.

Since there is a scarcity of guidance to the board, including criteria to be followed when preparing and proposing plan changes, it might be helpful to explore if “best practices” are followed. This is especially true if the proposed source documents are generated by sponsors from a participating town and not authored by the RSU or subsequent actions initiated by the district.

Here’s a quick, but not totally inclusive, **proposal evaluation checklist**.

The initiative should complement subjects addressed in the plan.
Proposed changes should be relevant to body of work and the matter addressed.

A basic expectation is for the initiative to be locally originated.
It may be less compelling for the proposal to be authored by a potentially disinterested third party and be irrelevant to the interests of the district.

The party initiating the change should assert support for action.

The proposal should be clearly written and well understood.
The plan document currently suffers with ambiguous entries in many places and deserves to not be burdened with more.

The proposal should be subject to a rigorous review and not require the RSU to schedule local meetings or hearings.
The purpose of any study is to allow rewrite or revision of those parts found wanting.

The proposal should not create a financial or administrative burden for the RSU and the other participating towns when administering the changing provisions.
When potentially burdensome a compromise should be offered or arranged in order to move forward.

Consideration of any proposed changes must meet simple legal tests.
Stated plainly, potential adoption of the provisions not conflict with existing statute or rule.