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May 2, 2022

## Via Email

Chris Bond, Esq.  
New Hampshire Department of Education  
101 Pleasant Street  
Concord, NH 03301

Re: Appeal of Town of Carroll and Minority Withdrawal Committee

Dear Attorney Bond:

This firm represents the above-referenced parties in regard to its appeal for the State Board of the adverse cooperative vote on its withdrawal plan. The vote passed overwhelmingly within the Town of Carroll but failed to pass at the district level. This letter seeks to address two issues: first, the question whether under an RSA 195:29 appeal the State Board has an obligation to investigate and report back to the White Mountain Regional School District on its findings and recommendations and secondly, the nature of the State Board of Education's investigation.

As for the first issue, the novel question presented at the last State Board hearing was whether the appeal and mandatory investigation was limited in scope to a failed vote on a withdrawal plan in a two-district cooperative.

In our opinion, the answer to that first question is no; upon receipt of a timely appeal, the mandatory obligation to investigate and report back to the district applies to all shapes and sizes of cooperative districts. We reach this conclusion on the basis that the language requiring that the State Board investigate and report back to the district on its findings and recommendations has been present in the statute since at least 1979. This language is not connected to the subsequently inserted language pertaining to two district cooperatives. Instead, the sole purpose of the amendment pertaining to two district cooperatives was to address the unique situation where instead of the multi-district cooperative continuing, a withdrawal from a two-district cooperative creates an immediate dissolution of the cooperative which would then require a plan for allocating assets and liabilities between the two independent school districts.

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In sum, there is little or no doubt that upon the filing of an appeal from an adverse vote, the function of the State Board is a mandatory function; “The State Board shall upon receipt of such appeal investigate and report back to the district on its findings and recommendations; and this report may require that there will be another special meeting for a vote of reconsideration.” See RSA 195:29.

Moving to the second issue, a question arose regarding the nature of the investigation and report back to the district. The statute offers no explicit guidance or mandate to the State Board. Instead, we are obligated to glean the scope of the State Board’s investigation and report from the broader chapter. In that regard, the first guidepost can be found in RSA 195:2 “Standards for a Cooperative District.” The fundamental question is whether the criteria for encouraging the formation or maintenance of the Cooperative remain. This includes questions as to whether the cooperative remains a natural social and economic region; and whether it has an adequate minimum taxable valuation; whether there are a sufficient number of pupils to permit the efficient use of school facilities within the district and provide improved instruction.

A second area of investigation should focus on whether the cooperative has maintained an equitable apportionment of its operating costs. The provisions of RSA 195:14-A grant the district the flexibility it needs to address changing economic situations in a manner such that the cooperative continues to maintain an equitable apportionment formula throughout the district. In this case there is ample history of the White Mountain Regional School District turning a blind eye to the request of the Town of Carroll for an equitable apportionment. The most recent illustration of this neglect is the refusal of the Regional School Board to address the apportionment in 2021 on the basis that it was too close to the annual meeting followed by a failure on the part of the district to take the matter up at the 2022 cooperative annual meeting.

Under these circumstances, where a town has repeatedly exhausted its efforts to seek an equitable apportionment, it is appropriate for the State Board of Education to study the matter, issue a report pointing out the inequity, and require a vote throughout the cooperative to permit reconsideration.

Thank you for your consideration of these matters. We respectfully request that you provide a copy of this letter to the State Board of Education. Please note that I have also provided a courtesy copy to Attorney Gordon Graham in his capacity as counsel for the White Mountain Regional School District.

Very truly yours,



Dean B. Eggert

DBE/am

cc: Gordon Graham, Esq.  
Ben Jellison, Town of Carroll  
Board of Selectmen, Town of Carroll  
Angela Adams, NH Department of Education