

Sudbury Public School Committee  
Public Comments on the Final Report of the Budget Review Task Force  
September 2, 2009

The Sudbury Public School Committee has previously issued Public Comments on the Preliminary Reports of the Budget Review Task Force. In those public comments, the Committee largely focused on the areas of the BRTF recommendations that were most germane to Sudbury's Schools. Among other things, the Committee's comments pointed out a number of issues with the Preliminary BRTF reports that involved inaccurate data, inflated estimates of cost savings and recommendations that were plainly outside of the BRTF's charge to provide objective analysis of Sudbury's budgetary issues. The Final BRTF Report provides corrections concerning some proposals but perpetuates other inaccuracies. Those interested in these issues are directed to the School Committee's attached comments on the Preliminary BRTF reports for more information.

The SPS Committee also notes that the Final Draft of the BRTF report was circulated to BRTF members very shortly before a final vote was to be held on its approval. This final draft was accompanied by a directive that this document not be shared with those outside of the BRTF. The final draft also contained a new "Executive Summary" that ran 16 pages in length. This "Executive Summary" raised materials and conclusions that were not included in the Preliminary Reports and had not been discussed – let alone analyzed – by the full BRTF membership. No member of either School Committee who served on the BRTF voted on the Final Draft of the BRTF Report. Three such members resigned from the BRTF and the remaining School Committee Member of the BRTF abstained from the vote on the Final Report.

Setting aside concerns about the soundness of the data or the resulting conclusions in the BRTF Final Report, many of the ideas in the report have merit and the work of the citizen volunteers who looked at these issues is appreciated by the Committee. For example, while the SPS had been working on an optional fee-based, full-day kindergarten program for years, the BRTF's initial proposal in this regard fostered useful dialog as the SPS Committee implemented its long-sought goal of establishing a full-day, revenue-neutral, kindergarten program in Sudbury. Moreover, following the work of the energy sub-group of the BRTF, alternative energy is being examined through the so-called Green Ribbon Committee. Other initiatives such as consolidation proposals are being examined and previously-considered ideas such as the introduction of sewers on Route 20 have been re-examined by the BRTF and data updated.

Sudbury's Town Boards and Committees have long been concerned with the Town's recurring budget deficit situation. As the BRTF has noted, the SPS have made progress in addressing structural budget issues in many areas. For example, the CORE project, a collaborative effort between SPS and the Town departments, has identified cost-savings measures and ways to better coordinate services. Moreover, SPS has more recently announced that our collective bargaining process, the planning for which began about two years ago, has resulted in significant changes to the SPS employee health benefits and other compensation that will significantly slow the growth of these expenses.

Going forward, it is our hope that all Town committees and others involved in these efforts can move forward in a collaborative effort to sustain the quality of life we all enjoy in Sudbury.

Sudbury Public Schools School Committee:  
Public Comments on the Preliminary Reports of the Budget Review Task Force

**Executive Summary**

The Sudbury Board of Selectmen charged the Budget Review Task Force with the mission of identifying areas where the town and schools might enhance revenue or reduce expenses without significantly reducing services. The mission statement called for these ideas to be presented in a Preliminary Report; then, the BOS would determine which ideas merit further review and how that analysis would proceed. The original mission envisioned a Final Report to be issued by the BRTF at the conclusion of this process.

The BRTF has issued both an Expense Reduction Preliminary Report and a Revenue Preliminary Report. The Sudbury Public Schools School Committee has worked with the BRTF during the development of the Reports and since their issuance and two of our members served on the BRTF. The School Committee appreciates the extensive efforts of the BRTF toward the goal of improving our town and school services. Since the issuance of the BRTF Preliminary Reports, we have continued to provide input informally in various meetings and in other venues. The School Committee offers these written comments on the Preliminary Reports to assist the BOS and others in moving toward a Final Report or other next steps to be determined by the BOS.

**The School Committee Public Comments address primarily those proposals that relate to SPS – BRTF Recommendations 1, 3, 6, 7, and 8 – but comment more generally on other proposals as well.**

**Expense Reduction Preliminary Report**

Many of the BRTF recommendations stem from the notion that Sudbury would benefit from efforts to further coordinate, consolidate, or regionalize services with other towns and school districts. The School Committee agrees that we should pursue such opportunities.

BRTF Recommendation 1 – Consolidation of LS and SPS Administrations: The BOS, working in conjunction with the Town of Lincoln, has established a Working Group with representatives from both towns to consider the ideas raised in the preliminary recommendation. To aid the Working Group, the School Committee here outlines comments it has made concerning the original proposal and factors to be considered going forward. The original proposal contemplated a certain school governance structure that is not legally available, but the advantages and disadvantages of other structures should be explored. Further, the original proposal included a cost-savings estimate for the recommended staffing pattern that was significantly overstated as it was not based on actual compensation and staff numbers. Finally, the preliminary proposal did not assess the educational or service impacts of the recommended structure or staffing plan and did not consider how job functions would be reallocated within the proposed staffing structure.

The School Committee recognizes that this particular consolidation proposal was only a preliminary outline. We expect that the Consolidation Working Group will fully analyze the potential school governance restructuring options, will compare how the staffing of our current districts compares to other consolidated districts, will analyze appropriate staffing by considering the functions and their potential reallocation, and will carefully weigh the potential impact on education and services of any proposal it may recommend. Indeed, we believe that this collaborative effort will be fruitful in finding ways that our school districts may consolidate or better coordinate functions to improve upon the excellent education provided in all three districts.

**Status: The School Committee has designated a representative to serve on the Consolidation Working Group. This Group has begun meeting and will report in time to prepare any article as needed for the 2010 Town Meeting. SPS will continue its ongoing efforts to collaborate with LS, LPS, and the Town to better coordinate services and reduce costs.**

BRTF Recommendation 6 – Collective Bargaining: The BRTF offered several recommendations for negotiation of the collective bargaining agreements with the SPS and LS teachers. As SPS is currently in negotiations with the Sudbury Education Association, we will not comment on issues, strategies, or expected outcomes of these negotiations. We note, however, that some of the BRTF recommendations are based on inaccurate assumptions concerning the current agreements or the impact of potential changes.

**Status: The collective bargaining negotiations are ongoing. The BRTF Report should be amended to address or remove other issues related to collective bargaining raised in the BRTF Preliminary Report, some of which are outside the parameters of the BRTF charge.**

BRTF Recommendation 7 – Health Insurance: The BRTF offers recommendations concerning changes to the health benefit program for Town employees, SPS teachers, and LS teachers; the primary proposal suggests that all adopt the Group Insurance Commission benefit plan. Again, the School Committee will not comment on issues, strategies, or expected outcomes of these negotiations including potential changes to the health insurance benefits. We note, however, that some of the BRTF conclusions are based on potentially inaccurate assumptions concerning the impact of potential changes.

**Status: The collective bargaining negotiations are ongoing. The BRTF Report should be amended to address issues concerning the analysis of projected cost savings for adoption of the GIC. The analysis should be based on consideration of the likely plan selections of the Town, SPS, and LS employees and an estimate of the typical trade-offs offered by other municipalities to reach agreement of the 70% union participation required for adoption of the GIC.**

BRTF Recommendation 8 – Full-Day Kindergarten: The BRTF recommended that SPS offer an optional fee-based full-day kindergarten program at a tuition rate above the costs of the program; the excess revenue obtained from the kindergarten payments would then be shifted to cover other operating costs. State law does not allow the District to charge a fee in excess of the costs of this

educational program, as recommended by the BRTF. Further, such an approach would run counter to the School Committee's longstanding policy not to charge any fees beyond the costs of a program and the specific goal here of making this important educational opportunity widely available.

**Status:** SPS has adopted an optional fee-based full-day kindergarten program for FY2010, with a fee based on the actual costs of the program. The BRTF recommendation to generate revenue from the full-day kindergarten program should be deleted from the Preliminary or any Final Report.

### Revenue Preliminary Report

The BRTF Revenue Subcommittee Report contains proposals relating to: (1) Commercial Development/Sewers on Route 20; (2) Alternative Energy Proposals; (3) Fundraising; and, (4) Legislative Initiatives. All of these proposals have the potential to materially impact Sudbury's long-term financial situation. The School Committee urges the formation of interested working groups to pursue these important ideas. If implemented, these ideas have the potential to substantially reduce the residential property tax burden which would be in the long term interest of the schools and the Town at large. The School Committee stands ready to provide support to such working groups once they are established by the Board of Selectmen.

To: Budget Review Task Force  
Board of Selectmen  
Finance Committee

From: Sudbury School Committee

Re: Public Comments on BRTF Preliminary Reports

Date: May 6, 2009

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## **Introduction**

The Sudbury School Committee has worked closely with the Budget Review Task Force (BRTF), through its members who served on the BRTF and in other ways, to provide input on the BRTF proposals. Since the issuance of the BRTF Preliminary Reports, we have continued to provide input informally in various meetings and in other venues. We have anticipated that information we provided would be reflected in the Final Report or in further analysis of the proposals. Given questions about the next steps in the process for response to the Preliminary Reports, we are formalizing our comments to assist those who may be involved in the follow-up to the preliminary proposals – either in production of a Final Report, in a working group assigned to explore a specific proposal, or in any other way that the BOS may choose to address these preliminary ideas. We comment here primarily on proposals that relate directly to SPS. These comments are offered based on the understanding that these proposals were preliminary and that the School Committee will work with those involved in any follow-up to the proposals.

## **Process**

In June, 2007, the Sudbury Board of Selectmen (BOS) appointed the BRTF to “determine if there are ways, both in the short term and over the long term, to enhance revenues or reduce expenses beyond what the Town is already doing.” The BOS asserted that all three cost centers have been creative in finding ways to manage in difficult financial times. Thus, the BRTF mission was not “to recommend reductions in town and school service levels as currently provided, but rather examine if there are steps that can be taken to reduce the cost, or the rate of increase in the cost, or providing the current level of services.” The group consisted of at-large citizen members, a Selectman, and members of the Finance Committee and both school committees.

The BRTF was charged with developing a Preliminary Report for the BOS and the Finance Committee. The process outlined by the BOS next provided for further research or information-gathering and then the development of a BRTF Final Report with an executive summary and recommendations. The BRTF divided into Revenue and Expense Subcommittees; both have issued Preliminary Reports. The Preliminary Revenue Report was issued in September, 2008, and the Preliminary Expense Reduction Report was issued in December, 2008. Both are posted on the Town website, and the BOS has asked for “public comment, critique, and input.”

The BRTF has done an excellent job with its primary mission as outlined by the BOS: identifying “promising areas of revenue generation and expense reduction/avoidance that can be investigated further, based on their potential to produce significant fiscal impacts.” The School Committee commends the extensive efforts of the members of the BRTF throughout this process. The BRTF members underwent an extensive phase of education about town and school operations, and then brainstormed a range of ideas for expense reduction and revenue generation. These ideas were then further explored and sorted, and only those with the most potential were outlined in the Preliminary Reports.

Subsequent to the issuance of the Preliminary Reports, the BOS and Finance Committee determined that many of the proposals merit further review. In particular, the BOS established a Working Group to explore the first recommendation in the Expense Reduction Preliminary Report: the potential consolidation of the administrations of the Sudbury Public Schools (SPS) and Lincoln-Sudbury Regional High School (LS) and related concepts. At this point, however, the next steps remain unclear as to the other proposals. The BOS may establish working groups or similar committees to explore other proposals in the Preliminary Reports. The BRTF may or may not produce a Final Report as was originally contemplated, as there has been extensive discussion concerning the Preliminary Reports.

## **Expense Subcommittee Preliminary Report**

### **The Case for Consolidation and Regionalization**

The BRTF Expense Reduction Preliminary report recommends that Sudbury pursue possible coordination, consolidation, and regionalization with other town and school districts in our region to save money when feasible by combining relevant functions. The SPS School Committee agrees that Sudbury should pursue such opportunities. The BRTF points to some ideas that may be explored, but there are many other areas that also merit further review. We encourage the BOS to reach out to other towns to initiate analysis of such options. We commend the recent initiative of the BOS in hiring a joint Director of Parks and Recreation with Wayland; this is a great example of how similar service areas may be combined across municipalities.

Locally, SPS continues to work closely with the Town Departments, through initiatives such as the CORE process, to find ways that we can better coordinate the work of our town and school employees. SPS also works closely with other school districts, including LS and LPS, to consider ways to collaborate to improve our services or find cost-saving opportunities. We currently work with other districts through district collaboratives to provide special education programs, transportation services, and professional development, and to purchase supplies and materials. We continue to seek other ways to work beyond our separate district boundaries to achieve efficiencies in how we provide and support education locally.

## **BRTF Recommendation 1:**

### **Consolidate Administration of LS and SPS**

The BRTF Preliminary Report recommended that SPS and LS consolidate administrations through a Superintendency Union. The BRTF also recommended against the formation of a committee to further explore consolidation.

When the BRTF Expense Subcommittee presented its findings to the FinCom and BOS on December 15, 2008, the BOS stated that exploration of this proposal would be a high priority and that the BOS would convene various stakeholders to discuss the process for such exploration. Subsequently, the Towns of Sudbury and Lincoln, acting through the Chairs of the respective Finance Committees and Boards of Selectmen, established a Working Group to investigate the possible consolidation of the administrations of LS, SPS and, possibly, the Lincoln Public Schools (LPS). The School Committee fully supports this effort and will participate in the Working Group. We believe that consolidation proposals raise important ideas about the possibility of other structures for our school districts that might bring financial and educational benefits or other ways to enhance collaboration across the districts.

The School Committee separately addressed the specific recommendation to implement a consolidated administration immediately for FY2010 without further exploration. We determined that the particular proposal in Recommendation 1 raised various budget, structural, legal, and educational questions that require analysis and thus could not be adopted immediately without such analysis. In particular, the suggestion of immediate implementation did not consider resultant qualitative impacts, the non-monetary costs of which could outweigh associated savings. The School Committee believes that the process outlined by the Towns of Lincoln and Sudbury provides the appropriate mechanism for such exploration. We have continued to discuss these issues with members of the BRTF as we move toward a broader analysis of the ideas raised by the Preliminary Report.

Some of the questions for further discussion that have been identified by the SPS School Committee concerning the preliminary consolidation proposal include the following:

#### A. Structure

The BRTF recommended that SPS and LS consolidate through a Superintendency Union “which would operate administratively as one school district.” There are a range of structures that may be available for consideration by Sudbury and Lincoln for its school districts; however, only some options would allow the schools to operate administratively as one district.

1. *Superintendency Union.* The Preliminary Report recommends consolidation of the LS and SPS administrations as a Superintendency Union, pursuant to M.G.L. c.71, §§ 61-64. This statute provides for towns to form such unions, under the oversight of a Joint Superintendency Union Committee comprised of three members from each of the existing school committees. This statutory mechanism is not available to regional school districts as it applies only to

“towns.” We note that legislation has been filed in the House this session (H.412) and previously to amend the statute to allow regional districts to participate in such unions. Some of the confusion surrounding this mechanism stems from the tendency of state education personnel to use the term “union,” “supervisory union,” or “superintendency union” to refer to a range of consolidation structures, including those that do not involve this statutory mechanism.

Members of the SPS School Committee and the Superintendent met with Christine Lynch, School Finance and District Support, MA Department of Elementary and Secondary Education (DESE). Ms. Lynch heads the School Governance support operation at DESE and she had worked with the BRTF as they developed this proposal. She confirmed that a Superintendency Union would not be available as a mechanism to be used by LS and SPS. She further outlined the three general school governance options that would be available for SPS, LS, and LPS: (a) joint hiring of a Superintendent between SPS and LS; (b) formation of a Superintendency Union between SPS and LPS, with the possible joint hiring of a Superintendent between the Union Committee and the LS School Committee; and (c) full regionalization, combining all three districts into one regionalized K-12 district. Communication with Ms. Lynch describing these three options is included as Attachment A.

Legal opinions related to the Superintendency Union proposal obtained by LS and the Town of Lincoln are included as Attachments B and C respectively. The LS legal opinion related to this issue was shared with the BRTF Expense Subcommittee. These are attached to this response to ensure that as this process moves forward, all involved have the benefit of these opinions related to the legal structure within which such proposals must be evaluated and, if warranted, implemented.

2. *Joint Hiring.* Subsequent to the issuance of the Preliminary Report, BRTF members have noted that, while the Superintendency Union mechanism may not be available, the two school committees could jointly hire a Superintendent or other staff.

(a) *Shared School Committee Membership:* The BRTF has cited as examples of joint hiring the administrative structures of Acton-Boxborough and Concord-Carlisle with the Acton and Concord Public Schools, respectively. In those consolidated systems, the regional agreements provide for a shared member school committee structure. This model would require amendment to the Lincoln-Sudbury Regional Agreement to eliminate the LS school committee as a separately elected board and to instead provide that the LS school committee be comprised of members of the Sudbury and Lincoln Public Schools school committees. The Working Group should look to these districts, among others, as potential models for school governance restructuring.

(b) *Separate School Committees:* Joint hiring by two separate school committees, without any school governance consolidation such as a joint union committee or overlapping school committee structure, would raise various implementation concerns. Joint hiring by two fully separate school committees would raise questions about how collective decisions are made and disagreements resolved. We view such a structure as highly problematic for effective operation of the Districts as it does not provide clear lines of authority for the Superintendent. These are issues that should be explored by the Working Group if joint hiring is considered. In any event,



joint hiring – with or without a change in school committee structure – may legally require amendment of the Lincoln-Sudbury Regional Agreement (and thus approval at both Town Meetings). See the opinion letter of LS counsel, David Mandel, indicating that amendment to the Regional Agreement would be required in any event (included as Attachment B).

3. *Other structures.* When districts work together through a Superintendency Union or joint hiring, these models do not significantly consolidate the *administrative functions* of the districts. Due to state and federal requirements, the two separate districts typically would have separate budgets, state and federal reports, teacher unions, payroll and human resource systems, and pension and health care programs. The BRTF report assumes additional savings based on consolidation of such functions. Savings based on a consolidation of administrative functions may require a school structure other than those proposed by the BRTF and thus alternative structures should be explored by the Working Group. While some efficiencies may be gained by other sharing models, the separate district structure may limit the ability to reduce the workload accordingly.

#### B. Education and Service Impacts

1. *Education Impact.* The BRTF has suggested consolidation as a potential cost-savings measure, but has not assessed the impact on the education of the students. The school committees and others should review the BRTF proposals to consider the consequences to education and services. The Working Group will look at both the educational and financial consequences of various options.

Budget reduction and allocation decisions always involve a complex balancing of factors in determining how best to use our limited resources to support education. The BRTF commentary accompanying Recommendations 1, 2, and 3 is infused with the notion that administrative costs do not directly impact education. Yet, the administrative operation of the schools very directly affects the educational outcomes. A Superintendent or Principal is an educational leader, not simply a CEO or manager. The presence of a leader who is visible in the schools and present in the classrooms, the effective supervision and support of teachers, the direct involvement of the Superintendent in implementation of curriculum, review of instructional practices, and professional development, and the personal relationship that a principal or house administrator has with students and parents all contribute to teaching and learning in significant ways. Lower class sizes and effective classroom teachers indeed are high priorities, but an adequate support structure also is essential to providing an excellent education.

Finally, the School Committee recognizes that some of these balancing decisions will result in reduction of services – and our aim remains to strike the best balance keeping in mind the preservation of educational quality. The School Committee does indeed agree that we should aggressively pursue opportunities to realize efficiencies when appropriate. The joint transportation system operated by LS and SPS provides a good and long-standing example of such efforts. The increased efficiencies do come at the cost of a service impact, as many parents and students who use our busses will note, but this trade-off represents a rational use of our resources. We expect that the Working Group will move forward with an analysis of various

consolidation options within the broader context of a balancing of budgetary and educational needs.

2. *Functional Impact.* The specific BRTF staffing plan may not be feasible as it may be insufficient to support necessary functions, especially in the areas of Finance and Information and Technology. The BRTF did not analyze any job descriptions or how administrative functions would be reallocated under this staffing plan. The BRTF did not look at what would happen to the work currently done by the staff members it suggested for immediate reduction. For instance, if our Superintendent, who currently works well more than full-time hours, were to become part-time, devoting 60% of his time to SPS, how would his other job responsibilities be met? Similarly, how would the work of the Business and Finance Director and others be reallocated under this plan? One concern identified is that by reducing the staff who perform required finance and budget work, the Superintendent must shift away from the educational focus to perform more of this work. While the BRTF relied on the general concept of economies of scale, the analysis does not consider how the workload may specifically be reduced or reallocated.

The BRTF proposed staffing plan would provide reduced administrative staffing compared to the school districts in the other consolidated systems cited in the report. The staffing listed in Table 3 of the BRTF Preliminary Report compares the existence of positions with certain job titles across the districts. Yet, the table omits staff members in the central administrations or other offices of the consolidated systems whose functions overlap with the current administrators in LS and SPS. In exploring any recommendations for combined administrative staffing, the Working Group should consider job functions and the allocation of job functions beyond similar job titles on the highest levels of administration.

### C. Cost Savings

1. *Costs of BRTF staffing plan.* The BRTF Preliminary Report estimates that its staffing proposal would result in a savings of approximately \$1,048,000, of which the Sudbury share would be \$980,000. Subsequent to the issuance of the Report, BRTF members met with the school administrators to review actual staff positions and compensation. The Superintendents did not examine the feasibility or desirability of the proposed structure, but simply reviewed the compensation savings that may result if the BRTF's particular staffing plan were to be implemented. The LS and SPS staff merely compared current costs of staff members with projected costs for the BRTF proposed staffing plan.

The BRTF cost-saving estimate included several assumptions concerning the number of staff members in the two districts and their compensation; as some of these assumptions did not accurately reflect the current positions or costs, the BRTF estimate overstated the potential cost savings of the proposed plan. Moreover, the BRTF had included consolidation of METCO directors in its estimate. As the METCO directors are paid by a METCO grant, this aspect should not be included in looking at the consolidation proposals; the grant money cannot be shifted to other administrative or teaching areas. The METCO issue is addressed separately below.

A comparison of the projected costs of the particular positions proposed by the BRTF model with the current costs for the respective administrations indicates that the proposed structure, if implemented, might save approximately \$314,565 in total (of which 84.51%, or about \$265,839, would be apportioned to Sudbury). The \$315,000 in projected savings includes the reduction of a Housemaster and Administrative Assistant at LS. The current LS plan provides for the likely elimination of these positions in FY2010 for a cost savings of \$171,122. Thus, the cost savings beyond FY2010 for the BRTF proposal would be about \$143,443.

The Superintendents shared this information with the BRTF members during their meetings; agreement and consensus on the numbers and assumptions was not reached. Thereafter, the meetings did not continue. The Consolidation Working Group is expected to analyze the budget impacts of any staffing proposals that may emerge from its broader efforts.

Furthermore, the BRTF cost-saving analysis, as detailed in Appendix F to the BRTF Preliminary Report, does not correlate with the BRTF proposed organizational chart found on page 13. For instance, the organizational chart proposes an added joint Special Education Administrator who is not included in the cost analysis.

*2. Administrative Expenditures Per Pupil.* The BRTF points to four consolidated systems (representing 10 districts) in our area as models for consolidation. As the BRTF notes, both LS and SPS currently spend less per pupil on administrative costs than almost all of these districts. The BRTF concluded that the total per pupil expenditure metric can be used reliably for comparisons among districts, but that the subtotal categories often may include inconsistencies among the school districts in assigning costs to each subcategory. For instance, the BRTF report (page 21) looks at the LS Administration per-pupil costs and the higher Concord-Carlisle Administration per pupil costs and questions which titles may be included in this category.

The SPS School Committee agrees that these functional sub-categories are a good way to assess how the other consolidated systems structure their staffing, but that research beyond the DESE reports is needed. The Working Group should explore the cost comparisons further to understand the positions included in these cost and function categories in each system, by gathering information directly from the districts and from DESE. DESE reports per pupil expenditures in a further break-down of administrative costs with sub-functions of the Administration function category. For instance, the DESE reports show that SPS spends less per pupil on "Business and Finance," a subcategory of Administration, than almost all of the cited districts. The Working Group should look at the different functional components outlined by the state to aid in a comparison of costs across districts.

The BRTF report focuses primarily on a comparison of total per pupil expenditures at the regional high school level. The report does note, however, that SPS per pupil expenditures are 12% lower than the state average and 21% lower than the K-8 state average. This comparison highlights the need to carefully compare the SPS administrative staffing, currently or proposed, to other similar districts. The low SPS spending per pupil shows that we currently have a highly efficient organization.

3. *Out-of-District Expenditures Per Pupil.* The BRTF consolidation discussion concludes with an analysis of another sub-category of per pupil expenditures: out-of-district special education costs. The report does not clearly state the goal of this analysis or the conclusion. Is this analysis related to the administration consolidation proposal in some way? Does this analysis suggest that our districts are more efficient or less efficient than other districts?

The BRTF recommends that out-of-district per pupil expenditures be further analyzed given the small numbers of students included in these measures and the variation in approaches among the districts. The School Committee would agree that these per pupil expenditures may not speak directly to the efficiencies of the systems analyzed in the BRTF report. In fact, those districts that reduce overall special education costs by educating more of their special needs students *within* the district often have *higher* than average out-of-district placement costs. In such instances, the students with the highest needs are those whose costs are reflected in out-of-district numbers. Other students, with lesser needs, may be educated within the district at a greater total cost-saving to the district.

The proportion of the per pupil expenditures spent on special education (in-district or out-of-district) likewise may not be indicative of the efficiencies of the system. Those districts with lower spending per pupil overall tend to reflect a higher percentage spent on special education costs. Another district may have similar or higher special education costs per special education student, but these costs represent a lower percentage of the total spending per pupil. A more refined financial analysis would look to a district's efforts to manage total special education costs.

4. *Structural Deficit.* The BRTF has proposed consolidation as a plan to cut costs and staff, thus helping with our structural budget deficit. If savings are realized, this would represent a one-time savings by lowering the total cost for both districts. However, BRTF members also have proposed that this plan be used to *shift* costs, such that the savings would be reallocated to pay for teachers or other staff. As this allocation would not reduce overall spending, the proposal would not affect the structural deficit. Given the various approaches that have been advanced in the public debate, further discussion of the goals of any consolidation plan is needed. The Towns of Sudbury and Lincoln should determine whether any identified savings would be shifted to other areas.

#### **School Committee Response:**

**The SPS School Committee recommends that the Consolidation Working Group:**

- **consider a wide range of school committee governance structures to determine the best options for both Sudbury and Lincoln to advance cost savings and educational goals;**
- **fully analyze the education and service impacts along with the potential cost savings for any consolidation proposals;**

- **conduct an analysis of job functions and responsibilities in comparing the staffing structures and costs among school districts, and in comparing any proposed staffing structure with the current staffing structure;**
- **delineate how current job functions would be reallocated and accomplished in any proposed staffing structure; and**
- **further analyze the actual costs of the current positions in our districts and the model systems, and identify those positions identified with any per pupil expenditure measures used for comparison.**

**The SPS School Committee further recommends that any analysis of special education costs, including out of district per pupil expenditures, be separated from the Consolidation Working Group process. We further recommend that the out-of-district analysis be omitted from any Final Report of the BRTF, or otherwise corrected in the Preliminary Report, as the analysis as presented is incomplete, is not predictive of efficiencies in the district, and does not include any recommendation that would reduce expenses or generate revenue.**

### **METCO**

The BRTF has recommended that LS and SPS combine their two METCO Director positions into one METCO director for both school districts. The BRTF recommendation has been raised in the context of the administration consolidation proposal. For our analysis, we have separated the BRTF recommendation about how we should spend the METCO grant money from the BRTF administration consolidation recommendation. The allocation of the grant money does not address the larger picture of the structural budget deficit, as the grant money cannot be shifted to other operational areas. Thus, changes to the METCO staffing cannot be counted in any projected savings of an administrative consolidation.

SPS has been working closely with LS and with the Lincoln Public Schools concerning operation of the METCO program, in prior years and this year. These efforts will help us in responding to the current and expected future cuts in the METCO grant. The BRTF recommendation about how to allocate the grant money has been included in this analysis. Factors including the differing pay structures and job responsibilities must be considered in determining the best approach to staffing. We certainly agree that increased coordination across the districts may enhance the METCO programming.

**School Committee Response: SPS will continue to collaborate with LS and LPS in analyzing METCO programming and costs and ways the Districts may work together effectively.**

### **BRTF Recommendation 3: Regionalize LS K-12**

The School Committee agrees with the recommendation to explore the regionalization of all school districts in Lincoln and Sudbury by combining into one regional K-12 school district. When the BOS decided to establish a Working Group to explore the BRTF consolidation proposal, the SPS School Committee urged the BOS to include regionalization in the analysis. We argued that an analysis of various consolidation ideas would not make sense unless explored in the context of possible regionalization. We believe that models that operate like a K-12 district are more likely to bring educational benefits and achieve cost savings.

We appreciate the decisions of the Towns of Lincoln and Sudbury to pursue this inquiry. Exploration of these issues will require the two towns to work closely and collaboratively to best understand the options that are in the interests of the residents in both towns. We recognize that this process will involve complex issues, including the Lincoln operation of the schools at Hanscom Air Force Base, the separate educational traditions of the two towns, and the need for a coordinated approach to funding.

*Grant opportunities.* The BRTF report comments that a grant of up to \$150,000 may be made available to qualifying municipalities involved in efforts to expand or implement regionalization. The grant program referenced in the report has previously provided grants up to \$25,000 for such efforts out of a total of \$150,000 available state-wide. The school committee agrees that Sudbury and Lincoln should pursue any grants available from the state -- or from other sources -- that may facilitate exploration of further coordination or regionalization.

**School Committee Response: The Consolidation Working Group established by the Towns of Lincoln and Sudbury will look at regionalization of the districts among the restructuring options included in its analysis.**

### **BRTF Recommendation 6: Collective Bargaining**

SPS is currently in collective bargaining negotiations with the Sudbury Education Association. The School Committee was in the initial phase of the bargaining process when the BRTF issued the Preliminary Expense Reduction Report. For the collective bargaining process to be effective the members of the bargaining teams need to ensure confidentiality. Therefore, by agreement with the SEA, the School Committee will make no statements about issues, strategies, or desired outcomes until the process is completed. The School Committee has not discussed the recommendations concerning collective bargaining with the BRTF.

**School Committee Response: The School Committee will not comment on issues that may be specific to ongoing contract negotiations.**

The School Committee offers here comments on the BRTF recommendations that relate more generally to collective bargaining or operation of the school district.

**School Committee Response:** If the BRTF is to issue a Final Report, the School Committee recommends that the BRTF consult with the School Committee or administration before offering any recommendations concerning collective bargaining. It should be noted that the current negotiations may restrict the ability of the School Committee or the administration to comment on the BRTF recommendations, but some information could be shared to advance the BRTF understanding of the current agreement, the potential for any actual cost-savings, or collective bargaining generally.

*Teacher Conferences.* The BRTF recommends that SPS establish evening parent-teacher conferences. The current contract does not provide for conferences outside of the school day; teachers do often meet with parents outside of regular school hours on a voluntary basis. This issue may or may not be addressed in our negotiations, but it should be noted that the addition of meeting responsibilities outside of the required hours would likely lead to increased expenses for teacher pay rather than decreased expenses in line with the BRTF mission.

**The School Committee recommends that this section be omitted from any Final Report of the BRTF, or otherwise removed from the Preliminary Report, as it is outside the charge of the BRTF.**

*Teacher Evaluations.* The BRTF Preliminary Report recommends an expansion of the process for teacher evaluations, but does not elaborate as to the reasoning for this recommendation or how this represents an expense reduction recommendation. The current collective bargaining agreement provides for an extensive evaluation process; this process requires significant staff time, including many required hours of administrative staff time. The expansion of this process would likely lead to the need for more administrative staffing time and therefore added costs.

**The School Committee recommends that this section be omitted from any Final Report of the BRTF, or otherwise removed from the Preliminary Report, as it is outside the charge of the BRTF.**

*Reduction of Steps:* The BRTF recommends a reduction of the number of steps in the collective bargaining agreement, but does not elaborate as to the reasoning for this recommendation or how this represents an expense reduction recommendation. A financial analysis concerning the impact of a higher number of steps would, at a minimum, compare the average salary costs of various teacher collective bargaining agreements with different numbers of steps. Indeed, contracts with a higher number of steps often have lower salary costs overall as the teachers take longer to get to the highest salary level or start lower than the entry salary level in other districts.

**The School Committee recommends that this section be omitted from any Final Report of the BRTF, or otherwise removed from the Preliminary Report, as it is outside the charge of the BRTF.**

*ILAP/Early Release Days:* While the BRTF has suggested bargaining concerning the ILAP early release days, this is not a collective bargaining topic. The teachers' work day is the same length on ILAP and non-ILAP days. The administration has the discretion to assign the work within that day -- whether it is an ILAP session, class time, or other work. Further, the reduction of

these days would not provide any expense reduction or address the structural deficit in any way. The adoption of the ILAP program resulted in: (1) increased time for teachers to engage in common training and planning. This is important in the effort to make sure that the educational experience is the same across schools and classrooms; (2) increased instructional time for students due to a small increase in overall class time and less time when teachers are pulled from class; (3) better trained teachers. The School Committee and the administration accomplished these benefits at no additional cost to the District. The elimination of this program would not save any money and would undermine the District's educational goals.

**The School Committee recommends that this section be omitted from any Final Report of the BRTF, or otherwise removed from the Preliminary Report, as it is outside the charge of the BRTF.**

### **BRTF Recommendation 7: Health Insurance**

The BRTF Expense Reduction Preliminary Report recommends that the Town of Sudbury, SPS, and LS participate in the Massachusetts Group Insurance Commission benefit program. The School Committee will not address the recommendation concerning employee health benefit plans which are subject to collective bargaining, but offers some general comments concerning the BRTF recommendation concerning the Group Insurance Commission.

#### A. Cost-Savings

1. *Projected Savings.* The Group Insurance Commission (GIC) administers health insurance and other benefits to state employees and retirees. Municipalities now may join the GIC subject to certain requirements concerning participation. The BRTF recommends that the Town (including SPS employees) and LS participate in this program. The BRTF estimates either \$2.4 million (as stated in Recommendation 7) or \$2.5 million (as stated in Table 2) in net savings from participation in this plan.

The GIC offers employees and non-Medicare retirees the option of 10 different health plans with premiums ranging in cost in FY09 from \$397.47 to \$735.25 (for individual plans) and from \$953.91 to \$1,758.57 (for family plans). The Fallon Community Health Direct Care Plan is the cheapest in both categories; the Fallon Community Health Select Care Plan is among the cheapest in both categories. These plans are able to offer lower premiums, in part, by providing a selective network of physicians, located primarily in the Worcester area, and limiting out-of-network benefits, especially concerning services at the Boston hospitals. The BRTF report states (on pages 32 and 35) that the Fallon Healthcare premium would be 34% less expensive than the current premium for the Blue Cross/Blue Shield Plan selected by most Town and SPS employees; the premium is less because the plan offers less than the current plan and is available within a limited geographic scope. The Town could not require employees to select this plan.

Nevertheless, the BRTF analysis of projected savings assumes that *every* employee of the Town, LS, and SPS who is currently on a Blue Cross plan will select one of the Fallon plans, which in many ways are more limited compared to the other eight options and the current plans available to town and school employees. Since it is not likely that most of the employees would switch to



the Fallon plans, the projected savings are overstated. The adoption of the GIC certainly may provide cost-savings, although we will not address this analysis at this time. We note generally, however, that a more accurate financial analysis would anticipate actual usage by Town, SPS, and LS employees. Indeed, consideration of the average premium cost under the GIC might be more predictive of costs for our employees.

*2. Negotiation trade-offs:* To adopt the GIC, municipalities must employ a process known as coalition bargaining to negotiate collectively with union and retiree representatives through a Public Employee Committee. Agreement to enter the GIC requires approval of 70 percent of the Public Employee Committee. The BRTF projection of \$2.4 to 2.5 million in cost savings assumes that the Town, SPS, and LS all achieve the 70% approval required for GIC adoption.

The BRTF recognizes that the Town and schools would need to offer certain trade-offs to obtain the required 70% approval through the coalition bargaining process. The BRTF recommends that the Town, SPS, and LS offer trade-offs “similar” to those offered in other communities to negotiate adoption of the GIC. The BRTF points to the decision in Weston to increase the town’s contribution to the health insurance premium by 5%, the decision in Millis to increase the town’s contribution to the health insurance premium by 10%, and Watertown’s agreement of a 4.5% salary increase to obtain approval to implement GIC. Yet, the BRTF does not calculate the implementation of similar give-backs in assessing the potential cost savings in Sudbury. What were the costs incurred that offset the savings in those towns? The BRTF presumably is suggesting we offer a comparable salary increase. Yet, the BRTF does not assess or recommend salary increases comparable to those trade-offs offered in other districts.

The BRTF recommends that the three cost centers offer salary increases that total \$602,000 across all three cost centers. The BRTF recommended this pay increase to offset “some increased medical costs.” The BRTF also recommends that non-teaching staff be offered a lower salary increase to offset the insurance change. The BRTF net projected savings are based on the assumption that 70% of the unions in the coalition bargaining process accept this trade-off recommendation. The BRTF further recommends that this \$602,000 spread across the three cost centers be offered as the trade-off for adoption of the GIC plus *all* of the other changes to the collective bargaining agreement recommended previously in the Preliminary Report (which include added work time).

Certainly, the adoption of the GIC if the requisite unions agree may save significant money in health benefit costs. An accurate analysis of the projected savings, however, must consider both potential employee health plan selection and offsets similar to those offered in other communities to secure adoption of the GIC.

## B. Other factors

A more comprehensive analysis of the costs and benefits to joining the GIC would include consideration of the various restrictions and requirements involved – and the cost implications of these. For example, the parties may be subject to binding arbitration as to a new plan design when one of the parties elects to withdraw from the GIC after the required term of participation. This means that the Town may incur added costs down the road upon the possible withdrawal

from the GIC program. The options that the Town and school districts would have going forward under the GIC program must be considered in an analysis of long-term cost implications.

**School Committee Response:** The School Committee recommends that the BRTF analysis of projected cost savings for adoption of the GIC be amended based on consideration of the likely plan selections of the Town, SPS, and LS employees and an estimate of the typical trade-off offered by other municipalities to reach agreement of the 70% union participation required for adoption of the GIC. The analysis should be corrected in the Preliminary Report or in any Final Report issued by the BRTF.

#### **BRTF Recommendation 8: Full-Day Kindergarten**

The BRTF Preliminary Report recommends that SPS offer an optional fee-based full day kindergarten. The BRTF further recommended that SPS charge a fee of \$5,000 per student and estimated that this would provide SPS an additional \$385,000 over the cost of the added program, which could then be shifted to other operating costs. Prior to the issuance of the report, the BRTF met with the SPS administrators to analyze potential costs based on current spending in the kindergarten program. SPS provided a projection model and compensation costs, which were used by the BRTF in its projections. The \$5,000 tuition recommendation was based on the BRTF's market analysis of other programs, including the Sudbury Extended Day tuition for the half-school-day not provided by SPS.

SPS has long sought to implement an optional full-day kindergarten program, but has encountered budget and space limitations. In 2002, the District conducted a feasibility study which demonstrated parent support and interest in a full-day program. In 2006, the school committee adopted a goal statement concerning its plans to move toward implementation of an optional fee-based full-day program. The School Committee voted its intent to "provide full-day kindergarten as part of our total educational program, while maintaining a quality half-day option." Recognizing that this stated educational need exacerbates an already stressed space and budget condition, the School Committee determined that the full-day kindergarten would be fee-based to support the non-mandated portion of the program.

The School Committee recently approved a full-day kindergarten program for implementation in FY 2010. This program will require a tuition of \$3,750 to cover the costs of the added half-day (the non-mandated portion of the kindergarten day). The program is intended to be as affordable as possible based on a projection of actual costs; a sliding fee scale is available depending upon a family's ability to pay.

State law does not allow the District to charge a fee in excess of the costs of this educational program, as recommended by the BRTF. Further, such an approach would run counter to the school committee's longstanding policy not to charge any fees beyond the costs of a program and the specific goal here of making this important educational opportunity widely available. Accordingly, the adopted program cannot and will not generate the \$385,000 in revenue projected by the BRTF.

**School Committee Response:** The School Committee recommends that the recommendation to generate revenue from the Full-Day Kindergarten program be omitted from any Final Report or otherwise removed from the Preliminary Report.

**BRTF Summary of Projected Financial Impact and Summary of Expense Reduction Recommendations**

**School Committee Response:** The School Committee recommends that the Summary of Projected Financial Impact and the Summary of Expense Reduction Recommendations be amended in the Preliminary Report or in any Final Report to reflect the changes and corrections noted above. In particular, Table 2 should be amended to omit the Potential Savings number listed for Full-Day Kindergarten and to revise the Potential Savings listed for LS/SPS Consolidation and Health Insurance.

**Revenue Subcommittee Preliminary Report**

The BRTF Revenue Subcommittee Report contains proposals relating to: (1) Commercial Development/Sewers on Route 20; (2) Alternative Energy Proposals; (3) Fundraising; and, (4) Legislative Initiatives. All of these proposals have the potential to materially impact Sudbury's long-term financial situation. Those related to commercial development/sewers and alternative energy would require the up-front expenditure of monies in order to obtain long-term financial benefits. Those related to fundraising and legislative initiatives, would require little in the way of direct expenditures and hold the potential to provide meaningful financial relief.

The School Committee, despite the fact that many of the proposals, are outside of its area of direct responsibility, urges the formation of interested working groups to pursue these important ideas. If implemented, these ideas have the potential to substantially reduce the residential property tax burden which would be in the long-term interest of the schools and the Town at large.

The School Committee stands ready to provide support to such working groups once they are established by the Board of Selectmen.

**Attachment A**

**Correspondence between John Brackett, Superintendent, Sudbury Public Schools  
and Christine Lynch, School Finance and District Support,  
MA Department of Elementary and Secondary Education**

**From:** John Brackett <john\_brackett@sudbury.k12.ma.us>  
**To:** clynch@doe.mass.edu  
**Cc:** jsantinelli@comcast.net; s\_juliano@yahoo.com; rrobison@fcsn.org; jeffrey\_beeler@comcast.net;  
Michele MacDonald <michele@mac-wit.com>  
**Sent:** Wednesday, February 18, 2009 12:32:22 PM  
**Subject:** Meeting Follow Up

Christine,  
Thanks again for taking the time to come to my office to discuss  
consolidation.

I have attached a follow up to our conversation. Please let me know if you  
have any trouble opening the document.

Thank you,

john

John R. Brackett, Ed.D.  
Superintendent  
Sudbury Public Schools  
40 Fairbank Rd.  
Sudbury, MA. 01776  
978-639-3211

Christine,

Thanks again for making time to meet with me and our school committee representatives in Sudbury. It was nice getting to meet you and the information and context you presented has been extremely helpful.

I am writing to follow up on that conversation. As you know, Sudbury's Budget Review Task Force has recommended that we pursue a Superintendency Union or some other form of consolidated administration. Since our meeting, the Selectmen of Sudbury and Lincoln have set up a working group to explore possible steps to consolidate elements of the SPS and LS administrations, and, perhaps, involving the Lincoln Public Schools administration. This working group will include members of the Budget Review Task Force as well as representatives from the school committees and other representatives of the two towns.

I expect that the working group will be in contact with you as they explore the various school governance issues involved. The background information you provided will help us as we move forward, so I want to review the information we discussed to confirm our understanding at this point.

First, we talked specifically about a "superintendency union." You noted that DESE uses the terms "union" and "superintendency union" generally to refer to a variety of cooperative arrangements in which two or more school districts share the services of a superintendent and other central office staff. However, these arrangements are not all "superintendency unions" within the meaning of Mass. General Laws, chapter 71, sections 61 to 64. The provisions of these sections address a specific mechanism allowing the school committees of two towns to form a union for employing a superintendent. In these situations, the law provides that the school committees will form a "joint committee" for purposes of the union. As DESE has determined that a regional school district is not a "town" within the meaning of this statute, this is not the specific mechanism that applies when a regional school district enters into a consolidated arrangement. Thus, SPS and LS would not form a "superintendency union" specifically within the meaning of these statutes.

As you noted, however, there are other ways that a consolidated district may be created to include a regional school district. You outlined for us three general approaches to school governance that we may explore as we look at consolidation options:

(1) The towns of Sudbury and Lincoln first could create a superintendency union of the two K-8 school districts. This would be a superintendency union within the meaning of the statute; a union school committee would be created with this mechanism. Then, that joint union school committee could enter into a joint hiring arrangement with the LS school committee to hire a superintendent and other central office staff. This approach would follow the model provided by Dover-Sherborn and by Northborough-Southborough-Algonquin. In those districts, the K-8 or K-5 school committees of the two towns entered into a superintendency union, and then jointly hired a superintendent and other staff with their regional high schools.

(2) The school committees of SPS and LS could jointly hire a superintendent and other staff, but this would not create a superintendency union within the meaning of the statute or provide for a joint union school committee. Each school committee would retain complete independent authority. The two school committees could enter into an agreement about how this arrangement would work (cost-sharing, etc.). You recommended a written agreement between the two school committees, but noted that it is not required.

This approach would be similar to the arrangement in Concord-Carlisle and Acton-Boxborough. In those consolidated districts, the regional high school committee and a town school committee have jointly hired a superintendent and other administrative staff. In Concord-Carlisle, the CC regional high school committee is comprised of the entire Concord Public Schools school committee plus two members from the Carlisle Public Schools school committee. Similarly, in Acton-Boxborough, the AB regional high school school committee is comprised of the entire Acton Public Schools school committee plus three members from the Boxborough Public Schools school committee.

At present, the Carlisle Public Schools may seek to join in this consolidated arrangement. If the parties agree, then the Concord Public Schools and the Carlisle Public Schools may form a superintendency union, which will then jointly hire the superintendent with the CC regional high school.

(3) The three school districts -- LS, SPS, and LPS -- could all merge and become a regional district. This could be accomplished by an amendment to the current regional agreement governing the high school or by creating a new regional agreement. You suggested that this arrangement may provide the most potential for cost savings as this would allow consolidation of administrative functions.

Please let me know if this accurately describes the general options available as we move forward in our analysis. As you know, these issues at times get quite energized and we want to be sure we 1) have a good understanding of the consolidation landscape, and 2) are sharing accurate information. Again, we appreciate your assistance as we look at the possible arrangements that may be available to coordinate or consolidate the administrative elements of our school districts.

From:  "Lynch, Christine M" <CLynch@doe.mass.edu> Thu, Feb 19, 2009 3:58:50 PM  

Subject: Sudbury: Meeting Follow Up

To:  John Brackett

Attachments:  Attach0.html

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John

I would say that you have quite accurately described a superintendency union as MGL Chap 71, Sections 61-64 outlines, as well as the other joint governance arrangements that we discussed.

Just several very *minor* additions –

In the fourth paragraph a superintendency union may be formed by two *or more towns*.

In item #3 second to the last paragraph the creation of a regional school district among the three districts of Lincoln, Sudbury and Lincoln Sudbury region may provide the potential for cost savings, but we would also point out that it would create the most efficient operational structure of the options presented as it would create one school district with one school committee and one administrative governance structure.

Please let me know if or how I might help you and the working group as you review these options.

Christine Lynch

781-338-6520

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**From:** John Brackett [[mailto:john\\_brackett@sudbury.k12.ma.us](mailto:john_brackett@sudbury.k12.ma.us)]  
**Sent:** Wednesday, February 18, 2009 12:32 PM  
**To:** Lynch, Christine M



ROPES & GRAY LLP  
ONE INTERNATIONAL PLACE  
BOSTON, MA 02110-2624  
WWW.ROPESGRAY.COM

## Attachment B

January 9, 2009

David M. Mandel  
(617) 951-7454  
[david.mandel@ropesgray.com](mailto:david.mandel@ropesgray.com)

Judith M. Belliveau  
Director of Finance & Operations  
Lincoln-Sudbury Regional School District  
390 Lincoln Road  
Sudbury, MA 01776

Re: Town of Sudbury Budget Reduction Task Force (BRTF)  
Preliminary Report Recommendations

Dear Judy:

In accordance with the School Committee's request, the following is a legal analysis of the BRTF Preliminary Report recommendation concerning consolidation of the school system administration of Lincoln-Sudbury Regional School District and the Sudbury Public Schools.<sup>1</sup>

### PRELIMINARY OBSERVATIONS

First, an observation as to terminology. The BRTF Preliminary Report at times confuses a formal Superintendency Union under Mass. G.L. c. 71, Sections 61-64 with a shared Superintendent of Schools and/or other central administrative services. Acton/Acton-Boxborough and Concord/Concord-Carlisle are NOT formal Superintendency Unions. Rather, they share (that is, employ the same people as) Superintendent and other central office staff. As a result, neither Acton/Acton-Boxborough nor Concord/Concord-Carlisle have a Joint Superintendency Union Committee.

Second, I must note that the governance structure of the Lincoln-Sudbury Regional School District, under the Regional School District Agreement, is radically different from Acton-Boxborough and Concord-Carlisle. At Acton-Boxborough, the Regional School Committee consists of the entire School Committee of the Town of Acton ex-officio, and a number of the

<sup>1</sup> Let me take this opportunity to confirm that, as noted in the BRTF Preliminary Report, either the addition of the Town of Wayland to the Lincoln-Sudbury Regional School District, or the addition of Sudbury K-8 (or Sudbury K-8 and Lincoln K-8) would require amendment of the Regional School District Agreement, culminating in approval by the Massachusetts Department of Education and a majority vote of both the Lincoln and Sudbury Town Meetings (and, in the case of regionalization with Wayland, the Wayland Town Meeting).



members of the Boxborough School Committee, also ex-officio. Concord-Carlisle is essentially the same. Thus, the Acton or Concord members of the Regional School Committee can automatically command a majority of the Regional Committee (although both Acton and Concord members of the respective Regional Committees have historically been very respectful of the interests of Boxborough and Carlisle, respectively). By contrast, no members of the Sudbury School Committee have any role whatsoever in the governance of the Lincoln-Sudbury Regional School District, and no members of the Lincoln-Sudbury Regional School Committee have any role whatsoever in the governance of the Sudbury Public Schools (and indeed there are not even any "Sudbury representatives on the Lincoln-Sudbury Regional School Committee", in the sense that all Lincoln-Sudbury Regional School Committee members are elected at-large in a District-wide election).

Third, a shared Superintendent does not automatically result in joint employment of human resource, buildings and grounds, or other personnel; in order for those functions to be consolidated, the two School Committees and the individual(s) involved would all need to agree for the same individual(s) to be jointly employed by both the Lincoln-Sudbury and Sudbury School Committees.

#### DISCUSSION

First, there is very significant doubt that the Lincoln-Sudbury Regional School Committee could enter into a formal Superintendency Union with the Sudbury Public Schools without amending the Regional School District Agreement (which of course would require approval of the Town Meeting in the Town of Lincoln as well as in Sudbury). In my view, a formal Superintendency Union, with the institution of a Joint Superintendency Union Committee, would be inconsistent with the basic governance structure of the Regional School District Agreement. I am not aware of any instance in Massachusetts in which a Regional School Committee entered into a Joint Superintendency Union with one of its member Towns over the objection of the other Town, and doing so would raise very significant legal issues.

Second, on the other hand, it would indeed be lawful for the Lincoln-Sudbury Regional School Committee to choose, as its Superintendent-Principal, the same person who serves (or who may be selected to serve) as the Sudbury Public Schools' Superintendent. It would likewise be lawful for the Lincoln-Sudbury Regional School Committee to choose, as its other central office personnel (e.g., Finance Director, Facilities Coordinator, etc.), individuals who serve (or who may be selected to serve) in those same roles for the Sudbury Public Schools. It is a policy question whether a majority of the Lincoln-Sudbury Regional School Committee would be agreeable either to the concept of shared services in general or the employment of the present Sudbury Public Schools incumbents in particular. Obviously the Town of Lincoln would have

concerns that its interests might be subordinated to those of the Town of Sudbury in such an arrangement, and those concerns presumably would need to be addressed.<sup>2</sup>

Finally, let me clarify certain legal misperceptions with respect to collective bargaining. The BRTF Preliminary Report states, on page 6, that the sharing of Superintendent services would result in a "comprehensive collective bargaining strategy." This reflects a misperception of the nature of shared superintendent services. Even with shared Superintendent services, the Sudbury School Committee would determine collective bargaining strategy for the Sudbury Public Schools, the Lincoln-Sudbury Regional School Committee would determine collective bargaining strategy for the Regional School District, and in each case the Superintendent would be obligated to follow the dictates of the relevant School Committee (to the extent that the Superintendent was even involved in collective bargaining). Whether the Local K-8 and Regional 9-12 school systems coordinate their collective bargaining strategy depends upon coordination and shared visions between the two School Committees, not a shared Superintendent.

The Preliminary Report's Recommendation 6 (on pages 30-31) does offer a vision for collective bargaining for both the local K-8 and Regional 9-12 school systems. To the extent that a majority of the Regional School Committee agree with these recommendations, they could of course become collective bargaining objectives for the Regional School District. I must note, however, that legally it is the Lincoln-Sudbury Regional School Committee (together with a municipal representative as designated pursuant to Mass. Gen. Laws c. 150E, Section 1) that is responsible for collective bargaining on behalf of the Regional School District. The "Town of Sudbury" has no power to adopt recommendations or determine collective bargaining strategy for the Regional School District, which of course includes the Town of Lincoln as well as the Town of Sudbury. Likewise, I should note that negotiating the Sudbury Public Schools and Lincoln-Sudbury Regional Schools teacher collective bargaining agreements as one contract (as is the case with Acton-Boxborough Regional School District and the Acton Public Schools) could not be accomplished without the consent of both the Lincoln-Sudbury and Sudbury Teachers' Associations.

I hope that the foregoing is useful as the Regional School District addresses the very fundamental issues raised by the BRTF Preliminary Report. If you or anyone on the School

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<sup>2</sup> Conversely, it would be possible for the Lincoln Sudbury and Sudbury Public School Committees to enter into joint purchasing and/or explore other ways to achieve economies even if the two school systems employed different individuals as Superintendent.

ROPES & GRAY LLP

Judith M. Belliveau

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January 9, 2009

Committee has any questions, or if I can be of any further assistance, please do not hesitate to contact me.

Very truly yours,



David M. Mandel  
DMM:kjc

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**Attachment C**  
**Correspondence between Timothy Higgins, Town Manager, Town of Lincoln**  
**and Legal Counsel Joel Bard**

From: Joel Bard [<mailto:JBard@k-plaw.com>]

Sent: Monday, January 26, 2009 11:58 AM

To: Higgins, Timothy S.

Subject: L-S Agreement and a proposed "Superintendency Union" with Sudbury K-8

You have asked us to look into the propriety of a superintendency union between the Lincoln-Sudbury Regional School District ("L-S", covering grades 9-12) and the Sudbury school district ("Sudbury", covering grades K-8). Both L-S and Sudbury are currently governed by their respective School Committees.

I have reviewed the applicable statutory scheme, G.L. c. 71, §§ 61-64, for superintendency unions to determine its applicability to a mixed school system of this nature. In my opinion, the contemplated superintendency union scheme, i.e., a superintendent jointly hired by the regional high school school district and one constituent town's K-8 district, does not fit, and is not authorized by, the statutory language.

Statutory superintendency unions are not, in my opinion, compatible with regional school districts. The language of the statute, G.L. c. 71, §61, is intended primary for smaller towns, but larger towns may choose to join a superintendency union. However, the language of the statute governing superintendency unions refers only to "The school committees of two or more towns . . ."; it does not provide for participation by regional school districts.

My opinion that statutory superintendency unions are not meant to include regional school districts is supported by the statutory scheme. First, governance of a superintendency union is vested in the school committees of the participating towns, acting as a joint committee. G.L. c. 71, § 63. There is no place in the statutory governance scheme for participation by the governing committee of a regional school district, which is a separate legal entity from any of the participating towns. Second, the statutory superintendency union scheme expressly addresses the possibility that a superintendency union might share the services of a superintendent with a regional school district. G.L. c. 71, § 64. That section mentions the payment for such shared employment as "the combined salary received by a [superintendent] serving in a dual capacity." This language suggests that such a superintendent is, in essence, working separately, on a part-time basis, for both the regional school district and the superintendency union.

We have reviewed the Acton-Boxborough Regional School District Agreement and it does not mention any superintendency union between the Regional School District and the Acton K-8 School System. I must therefore conclude that, while the Acton-Boxborough Region School District and the Acton K-8 School System may call their cooperation agreement a "superintendency union," the agreement is not a statutory superintendency union, but is, instead, a negotiated agreement for shared services between the two parties.

It is therefore my opinion that if a single town wished to enter into an arrangement with a regional school district to share the services of a single superintendent, the town and the district would negotiate an arrangement in which that individual would receive a "combined salary" for "serving in a dual capacity" as is explicitly permitted by G.L. c. 71, § 16 (l). Such an arrangement could be an informal arrangement by each hiring entity to fund a portion of the dual-capacity superintendent's salary and expenses, with each hiring entity separately supervising the incumbent for their respective portions of the superintendent's time (assuming that the incumbent is willing to serve under such an arrangement). Alternatively, the town and the regional school district could enter into a more formal intermunicipal agreement pursuant to G.L. c. 40, § 4A.

In the context of the existing L-S Agreement, I should note that any arrangement to share the services of a superintendent would have to be consistent with the Agreement. A cooperative/sharing arrangement could not allow for the L-S School Committee to abdicate or delegate control over the superintendent to any other entity. Superintendents have considerable duties imposed by statute for supervision of the administration of the school system. G.L. c. 71, § 38. In turn, G.L. c. 71, § 16 (l) grants to the regional school district the power to "employ a superintendent of schools . . . and to establish an employment contract for a period of time . . . , and said superintendent shall have all the powers and duties imposed upon school superintendents by law." The Regional School District Committee thus has the duty to employ the regional district superintendent, set the terms of the superintendent's contract, and thereby supervise him or her.

The Lincoln-Sudbury Regional Agreement § 10 permits the L-S Committee to create advisory subcommittees, but such subcommittees are to work under the supervision of the L-S Committee. In my opinion, therefore, under the current Agreement, the L-S School Committee cannot delegate its duty to supervise the regional district superintendent to another body, such as a joint committee of the L-S Committee and the Sudbury School Committee.

Very truly yours,  
Joel

Joel B. Bard, Esq.  
Kopelman and Paige, P.C.  
101 Arch Street  
Boston, MA 02110  
(617) 556-0007  
jbard@k-plaw.com