

# THE ALTERNATE ORGANIZATIONAL STRUCTURE (“AOS”) – A NEW OPTION FOR SCHOOL REORGANIZATION IN MAINE

BY

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## **1. What is an AOS?**

PL 2007, Chapter 668, permits school administrative units to submit a reorganization plan to form an “alternate organizational structure” (“AOS”) as an alternative to forming a regional school unit (“RSU”). Like a school union, an AOS is two or more school administrative units which agree to share certain administrative functions and to engage in joint activities while retaining their separate identity. As in a school union, the members of an AOS may retain their local school boards, local school budgets, local control over school facilities and programs, and local control over employment of school personnel. In order to be approved as an AOS, the participating school units must enter into an inter-local agreement pursuant to Title 30-A, Chapter 115. The inter-local agreement must describe functions to be shared and may establish a joint board or similar entity to administer the AOS. Under 30-A M.R.S.A. §2203(1), the inter-local agreement must be approved by the governing body of each participating school unit. 20-A M.R.S.A. § 1, sub-§§ 26 and 28 define the school committee and school board of a school administrative unit as its governing body.

A reorganization plan establishing an AOS, including the inter-local agreement, must be submitted to the Commissioner of Education for approval. The reorganization plan must then be submitted to the voters of the participating school units for approval at a referendum. A plan for an AOS is subject to the same timelines as a plan for an RSU, and an AOS is subject to the same requirements as an RSU regarding minimum numbers of pupils. Municipalities that intend to engage in planning and negotiation to create an AOS, just like those who intend to plan for an RSU, must form a reorganization planning committee.

An approved AOS is a school administration unit, however each of its members also remains a school administration unit. Title 20-A, Chapter 606-B which describes a school administration unit’s rights and responsibilities related to Essential Programs and Services, clarifies that a school administrative within the meaning of Chapter 606-B refers to the AOS and not its individual members.

## **2. What Functions Must be Consolidated in an AOS?**

In reviewing a reorganization plan for an AOS, the Commissioner must find that the AOS will result in:

- (a) Consolidation of system administration;
- (b) Consolidation of special education administration, transportation administration

- and administration of business functions including accounting, reporting, payroll, financial management, purchasing insurance and auditing;
- (c) Adoption of a core curriculum and procedures for standardized testing and assessment aligned with the system of learning results (established in Title 20-A, section 6209); and
  - (d) Adoption of consistent school policies and school calendars and a plan for consistent collective bargaining agreements.

### **3. How Does this Consolidation Occur?**

#### **A. An AOS must include an inter-local agreement as described in Title 30-A, chapter 15.**

The relevant requirements are outlined below:

For the purposes of an inter-local agreement a school administrative unit is a public agency of the state. In the context of an inter-local agreement, any power or powers, privileges or authority exercised or capable of exercise by a public agency of the State that has entered into such an agreement may be exercised and enjoyed jointly with any other public agency of the State.

**1. Agreement.** Any 2 or more public agencies may enter into agreements with one another for joint or cooperative action under this chapter. The governing bodies of the participating public agencies must take appropriate action by ordinance, resolution or other action under law before any such agreement may become effective.

**2. Specifications.** Any inter-local agreement must specify the following:

- A. Its duration;
- B. The precise organization, composition and nature of any separate legal or administrative entity created by the agreement together with the powers delegated to that entity, provided the entity may be legally created;
- C. Its purpose;
- D. The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget for the undertaking;
- E. The method to be used to partially or completely terminate the agreement and to dispose of property upon termination; and
- F. Any other necessary and proper matters.

**3. Additional items.** The statute suggests by implication that an inter-local agreement may establish a separate legal entity to conduct the joint or cooperative undertaking. However, if the inter-local agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement, in addition to the items listed above as “specifications” must contain the following.

- A. It must provide for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board,

all public agencies party to the agreement must be represented.

B. It must provide the manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking.

**4. Responsibility.** No inter-local agreement may relieve any public agency of any obligation or responsibility imposed upon it by law except to the extent of actual and timely performance by a joint board or other legal or administrative entity created by an inter-local agreement. This performance may be offered in satisfaction of the obligation or responsibility.

**5. Liability.** An action is maintainable against any public agency that is party to an inter-local agreement whose default, failure of performance or other conduct caused or contributed to the incurring of damage or liability by the other public agencies jointly.

**6. Notice to regional councils.** An inter-local agreement is subject to the reporting requirements of Title 30-A, section 2342, subsection 6, if applicable, which are outlined below:

**Referral of proposals for inter-local agreements.** Before any 2 or more municipalities may join together through an inter-local agreement, the municipalities shall submit the proposal to the regional council or councils within whose areas of jurisdiction the municipalities are located. The council or councils, within 30 days, shall render an advisory report of the regional significance of the proposal, unless the referring municipalities agree to extend this period.

**7. Limitation.** Inter-local agreements are also subject to the following limitations:

A. No powers, privileges or authority may be jointly exercised unless each type of power, privilege or authority exercised is capable of being exercised by at least one of the parties within the entire jurisdictional area of the contract, or by each of the several parties within each of their several jurisdictions if all of the several jurisdictions make up the total jurisdictional area of the contract; or

B. No essential legislative powers, taxing authority or eminent domain power may be delegated by contract to a joint authority or administrative entity.

**B. In addition to the required inter-local agreement, an AOS may also include a collaborative agreement**

A collaborative agreement is an agreement between a school administrative unit and other school administrative units, local and county governments or State Government to share the responsibility for and cost of the delivery of certain administrative, instructional and noninstructional functions such as system administration, school administration, special education, transportation and buses

and facilities maintenance. Collaborative agreements are not subject to the same requirements as inter-local agreements and may include the following:

- a) Shared purchasing or contract agreements;
- b) Agreements for shared staff or staff training;
- c) Agreements to share technology or technology support;
- d) Agreements to provide special education programs and support services;
- e) Agreements to share accounting, payroll and financial management services;
- f) Agreements to coordinate transportation routing and vehicle maintenance;
- g) Agreements to share food service planning and purchasing; and
- h) Agreements to coordinate energy and facilities management.

The AOS statutes, however, do not require that an AOS include a collaborative agreement.

#### **4. What content must be included in an AOS proposal?**

An AOS reorganization plan, like a RSU reorganization plan must include, pursuant to PL 2007, c. 240, Pt. XXXX, §36, sub-§5, (and repeated in Title 20-A, section 1461(3)(A)):

- A. The units of school administration to be included in the proposed AOS;
- B. The size, composition and apportionment of the governing body;
- C. The method of voting of the governing body;
- D. The composition, powers and duties of any local school committees to be created;
- E. The disposition of real and personal school property;
- F. The disposition of existing school indebtedness and lease-purchase obligations;
- G. The assignment of school personnel contracts, school collective bargaining agreements and other school contractual obligations;
- H. The disposition of existing school funds and existing financial obligations, including undesignated fund balances, trust funds, reserve funds and other funds appropriated for school purposes;
- I. A transition plan that addresses the development of a budget for the first school year of the reorganized unit and interim personnel policies;
- J. Documentation of the public meeting or public meetings held to prepare or review the reorganization plan;
- K. An explanation of how units that approve the reorganization plan will proceed if one or more of the proposed members of the AOS fail to approve the plan;
- L. An estimate of the cost savings to be achieved through formation of an AOS and how costs will be reduced; and
- M. Such other matters as the governing bodies of the school administrative units in existence on the effective date of this Part may determine to be necessary.

As a practical matter a school reorganization plan for an AOS will be easier to prepare than a plan for an RSU because each member school district in an AOS will typically retain its own school property, school indebtedness and lease purchase obligations, school personnel contracts, school collective bargaining agreements and other school contracts, and existing school funds and financial obligations.

## **5. What parameters constrain the formation of an AOS?**

In developing an AOS reorganization plan for school administrative units, the governing bodies of school administrative units shall work within the following parameters, pursuant to PL 2007, c. 240, Pt. XXXX, §36, sub-§5, (and repeated in Title 20-A, section 1461(3)(B)), just as are required for governing bodies of school administrative units participating a RSU reorganization plan.

A. The proposed AOS must serve not fewer than 2,500 students, except where circumstances relating to the following factors justify an exception:

1. Geography, including physical proximity and the size of the current school administrative unit;
2. Demographics, including student enrollment trends and the composition and nature of communities in the AOS;
3. Economics, including existing collaborations to be preserved or enhanced and opportunities to deliver commodities and services to be maximized;
4. Transportation;
5. Population density, including the rural nature of our communities;
6. Other unique circumstances including the need to preserve existing or developing relationships, meet the needs of students, maximize educational opportunities for students and ensure equitable access to rigorous programs for all students; or
7. If, after performing due diligence to develop a regional plan that meets the 2,500 students enrollment requirement, a school administrative unit is unable to achieve the enrollment goal due to the decision of geographically proximate school administrative units to participate in a different regional unit.

When circumstances justify an exception to the requirement of 2,500 students, the unit must serve at least 1,200 students, except for offshore islands and schools operated by tribal school committees, which may serve fewer than 1,200 students.

In addition, the Commissioner may authorize an AOS to serve less than 1200 but not less than 1000 students in an isolated rural community if the AOS meets at least one of the following criteria:

1. The proposed AOS comprises 3 or more school units;
2. The member municipalities are surrounded by approved RSU's or AOS's and there are no other school units available to join the AOS; or
3. The member municipalities in the proposed AOS include 2 or more isolated small schools.

B. The proposed unit, viewed in conjunction with surrounding proposed units, may not result in one or more municipalities being denied the option to join an RSU (or AOS).

C. The plan must provide comprehensive programming for all students from kindergarten to grade 12 and must include at least one publicly supported secondary school.

D. The plan must be consistent with the policies set forth in Title 20-A, section 1451, which are:

1. Equitable educational opportunity for all students to demonstrate achievement of the content standards of the State's system of learning results established in Title 20-A section 6209;
2. Rigorous academic programs that meet the requirements of the system of learning results established in Title 20-A section 6209 and that prepare students for college, careers and citizenship;
3. Uniformity in the delivery of academic programs that meet the requirements of the system of learning results established in Title 20-A section 6209;
4. A greater uniformity of tax rates for the support of schools;
5. The efficient use of limited resources in order to achieve long-term sustainability and predictability in the support of public schools;
6. Effective use of the public funds expended for the support of public schools by means of:
  - A. The creation of cost-efficient organizational structures; and
  - B. Administrative structures and efficiencies that permit the organized and regular delivery of uniform state-sponsored professional development programs to promote coherence and consistency in the understanding and application of the State's standards-based system for continuous improvement in student achievement;
7. The preservation of opportunities for choice of schools; and
8. The maximization of opportunities to deliver services that can more effectively be provided in larger districts than from within smaller units or individual schools.

An AOS shall provide kindergarten to grade 12 public education, and shall develop and implement policies that address efficiencies in administration, educational programming and the sharing of community resources for the continuous improvement of student achievement and the preparation of students for college, careers and citizenship.

E. The plan may not displace teachers or students or close any schools existing and operating during the school year immediately preceding reorganization, except as permitted under Title 20-A section 1512. And,

F. The plan must address how the school administrative unit will reorganize administrative functions, duties and non-instructional personnel so that the projected expenditures of the reorganized school unit in fiscal year 2008-09 for system administration, transportation, special education and facilities and maintenance will not have an adverse impact on the instructional program.

A school reorganization plan for an AOS must also include interim procedures for making the transition to an AOS in the period after the referendum vote but before July 1 when the AOS becomes operational. These interim procedures must address such matters as appointment or election of an interim AOS school committee, development and adoption of an AOS budget, selection and timing of a Superintendent of Schools and other AOS personnel, and other similar transition matters.

#### **6. What are the Budget Requirements for an AOS**

A plan for an AOS must include the same budget format and budget validation referendum procedures as are applicable to RSUs (described in Title 20-A, sections 1485 and 1486), except that an AOS and each participating school unit in the AOS may conduct its own separate budget meeting and budget validation referendum. The 14 day time limit for the budget validation referendum does not apply and the budget validation referendums for an AOS and the participating school units in an AOS must all be conducted on the same day.

#### **7. How is State Subsidy Calculated for an AOS?**

Under 20-A M.R.S.A. §1, sub-§ 26(c), an AOS serves as the school administrative unit for all its member entities for purposes of calculating state subsidy under the Essential Programs and Service Law, Title 20-A Chapter 606-B. The Department of Education will calculate state subsidy for the AOS as if it were a single school administrative unit rather than a group of separate school units which share certain functions. Thus the AOS will receive one combined form ED 279 rather than a separate ED 279 for each participating school unit. In actual practice, this means that a reorganization plan for an AOS will have to include a method for reallocating the state subsidy received by the AOS among its participating school units.

#### **8. How Will State Subsidy Be Reallocated to AOS Members?**

We have developed for discussion purposes a draft of a formula which might be used to allocate the state subsidy received by an AOS among its constituent members. The basic ideas behind this state subsidy reallocation method are: 1) that the member school units in the AOS which are eligible for a minimum state subsidy special education adjustment will be allocated their minimum state subsidy; 2) that state subsidy allocations based on actual costs such as bus purchases, debt service, and high cost special education placements will be allocated directly to the member school units responsible for those costs; and 3) that any remaining state subsidy will be reallocated to those AOS members not eligible for minimum state subsidy in proportion to the amount by which the balance of their total allocation exceeds their required local contribution.

## **9. Summary**

In summary, forming an AOS may be a preferable reorganization option for some school units which seek to preserve their local school boards, local budget meetings, local ownership of school facilities, and local control of school programs. The AOS reorganization plan will have to include an inter-local agreement under Title 30-A Chapter 115. In many respects a School Reorganization Plan for an AOS will be simpler than a comparable plan for an RSU because the member school units will retain much of their current structure, authority and responsibilities. Among the challenges in developing a plan for an AOS will be to develop a method for reallocating state subsidy to the AOS among its constituent members in a manner that is fair to each of the member school units.