



## VERNON VERONA SHERRILL CENTRAL SCHOOL

City School District of the City of Sherrill

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August 2022

Members of the Vernon Verona Sherrill School Community,

The VVS Board of Education would like to express its appreciation to the residents of the Vernon Verona Sherrill School District for bringing their questions regarding the June 1, 2022 Sherrill-Kenwood Free Library's Chapter 259 Vote to our attention. The Board further appreciates the open, trusting relationship we enjoy with the VVS community, and for allowing us the opportunity to provide clarification through this Frequently Asked Questions (FAQ) document.

It is our hope that this FAQ addresses questions brought to the VVS Board of Education following the District's fulfilling its obligation under Chapter 259 of Education Law to conduct the library vote as requested. For additional information regarding this vote or the requirements under Chapter 259 of Education Law, please contact the Commissioner of Education or the Sherrill-Kenwood Free Library and its Board of Trustees. The Board of Education appreciates your continued support and trust in the Vernon Verona Sherrill School District.

VVS Board of Education and Administration

## FAQ

### June 1, 2022 Sherrill-Kenwood Free Library's Section 259 Library Vote

On June 1, 2022, a vote was held for the residents of the Vernon Verona Sherrill School District to determine if the residents as a whole agreed to authorize the Sherrill-Kenwood Free Library to collect the sum of \$186,700.00 by annual levy to support its operations. Questions have arisen from members of the public seeking clarification on the role of the school district in this matter.

The following is provided to give clarity to frequently asked questions regarding the June 1, 2022 Sherrill-Kenwood Free Library's vote to levy a tax upon the residents of the Vernon Verona Sherrill School District. The information is based on the facts of the events, Education Law, and consultation with school district attorneys.

**Q: What type of library is the Sherrill-Kenwood Free Library?**

**A:** According to the information provided on the NYSED website (<https://www.nysl.nysed.gov/libdev/libs/publibs/3my.htm>), the Sherrill-Kenwood Free Library is listed as an Association Library. According to that same website, an Association Library is a public library created by a membership association.

**Q: How are Association Libraries funded in New York State?**

**A:** An Association Library is generally funded\* through one of four funding sources, or a combination of them:

- a) private donations;
- b) municipal budget;
- c) tax levy by municipal vote (aka. Chapter 414 vote); and
- d) tax levy by school district vote (aka. Section 259 vote).

\*The names and numbers in parentheses refer to the parts of the laws that authorize an Association Library to collect a sum of money to support its operations by annual levy of a tax upon taxable real property within the boundaries of the municipality (Chapter 414) or the school district (Section 259).

**Q: If a library seeks to be funded via a tax levy, through the authority given to them under Chapter 414 and Section 259, who decides which of the two funding sources the library ultimately seeks funding through?**

**A:** The decision to pursue either a Chapter 414 or Section 259 vote rests solely with the library and its Board of Directors/Trustees. Neither the municipality nor the school district have any authority over that decision.

**Q: Can a municipality or school district refuse a proper request from a library to undertake a Chapter 414 or Section 259 vote?**

**A:** No. If a library submits a proper request to the municipality or school district to undertake a Chapter 414 or Section 259 vote, neither can deny the request and are obligated under the law to provide certain services and undertake certain responsibilities with respect to the vote.

**Q: How has the Sherrill-Kenwood Free Library been funded in the past?**

**A:** According to the library, up to this time, the Sherrill-Kenwood Free Library has been funded through a combination of private donations and municipal budget appropriations from the Town of Vernon and the City of Sherrill.

**Q: What type of vote took place on June 1, 2022?**

**A:** A Section 259 library vote.

**Q: Is a Section 259 vote a school district vote?**

**A:** No. In the case of a Section 259 library vote, the school district acts solely as the mechanism or conduit for the library to conduct its vote, as the library has no legal authority under the law to conduct its own vote on a tax levy. It must use either a municipality (Chapter 414) or school district (Section 259) to conduct a vote to levy a tax, where there are structures, procedures, and authority to do so already in place.

**Q: Does a Section 259 library vote have any connection to the school district, its board of education, its administration, its budget, or its tax levy?**

**A:** No. With a Section 259 vote, the library is only using the school district, and its authority under the law, to conduct a vote to levy a tax, as a **procedural mechanism** to conduct their vote and collect the tax.

**Q: Does the school district have any authority over the library with regards to a Section 259 vote?**

**A:** No. As long as the district is presented with a proper request and proper ballot language, it must fulfill its obligations and requirements under the law.

**Q: What specifically is a Section 259 vote and how does it impact the residents of the Vernon Verona Sherrill School District?**

**A:** Section 259 (Chapter 16, Title 1, Article 1, Article 5, Part 2 § 259 of NYS Education Law) authorizes a library to either have placed on a school district ballot during the regular school district budget and election vote, **OR** by separate vote held on another day, a proposition to collect a sum of money by annual levy of a tax upon the taxable real property within the Vernon Verona Sherrill School District for the purpose of funding the library. If the proposition passes, an additional and **separate library tax** will be assessed and collected through the existing mechanism of school tax bills. It will be identified on the tax bills as a **separate and distinct library tax**.

**Q: If a library seeks to be funded via a tax levy, through the authority given to them under Section 259, who decides whether the proposition will be placed on the next regular school district budget and election vote (May), or by separate vote held on another day?**

**A:** The decision on whether the proposition will be placed on the next regular school district budget and school board election vote, or by separate vote held on another day, rests solely with the library and its Board of Directors/Trustees, so long as the vote takes place prior to July 1st. As long as the library presents the school district with a proper request, and the date is before July 1st, the school district has no discretion or authority over the date of the vote.

**Q: Will I be able to tell how much of my tax bill goes to the school district and how much goes to the library?**

**A:** Yes. The school tax (and how it is determined) and the public library tax (and how it is determined) will be listed and identified separately on the tax bill.

**Q: How does the library obtain its tax levy collected through the school tax bill?**

**A:** Once the money is collected from the tax bills by the school district, the library will invoice and be paid by the school district the sum of money it was authorized to levy through the vote.

**Q: Can I choose to only pay my school taxes and not the library tax?**

**A:** No. Payment of anything less than the full amount of the bill (school tax and library tax combined) will be considered a partial payment. Partial payments cannot be accepted. Penalties will be applied and, if the taxes remain unpaid, will be turned over to the county as uncollected taxes.

**Q: What are a school district's obligations upon receipt of a proper request from a library for a Section 259 vote?**

**A:** When provided a proper request from a library to conduct a Section 259 vote, a school district is required under NYS Education Law to:

- a) arrange for polling locations and election officials;
- b) provide ballots with proper language for the proposition;
- c) distribute, on behalf of the library, its public notice/communication;
- d) arrange for required legal notice publications;
- e) tally and record the results of the vote;
- f) accept the vote results;
- g) and, if approved by the voters, collect the library tax authorized by the vote through the mechanism of the school tax bill.

**Q: What laws govern school district voting and elections?**

**A:** School district voting and elections are not governed by state or federal election law, but rather by New York State Education Law.

**Q: How and when were residents notified of the June 1, 2022 library vote?**

**A:** Residents were notified through a legal notice posted in the newspaper and a newsletter distributed to residents by the U.S. Postal Service. The mailing of the newsletter followed the same requirements under Education Law as is required for school district budget notices, which is to be mailed out at least six days before the vote.

**Q: Are there any requirements in the law regarding what the notice needs to look like, did the notice contain those requirements, and who is responsible for the creation of the notice?**

**A:** The requirements outlined in Education Law were adhered to as follows:

- a) The notice must contain the language of the proposition and the date, time, and location of the polling locations. Any other information is solely up to the discretion of the library;
- b) The notice contained the language of the proposition and the date, time, and location of the polling locations, as required;
- c) The library is responsible for the creation of the notice. However, under the requirements of a Section 259 vote, the school district is responsible for its distribution.

**Q: A number of voters indicated that they did not receive the notice. How were the library vote notices distributed, and to whom were they distributed?**

**A:** The District followed the exact same procedures, used the exact same list of addresses, and used the exact same mail preparation service to prepare and distribute the notices on behalf of the library as it does for the Sheveron Communicator Newsletter, and its annual Budget Vote and Board Election in May. The District uses a mailing list provided by PJ Green. This list was reviewed against the listing from the May Budget Vote and Board Election and found to be the same.

**Q: Residents of the VVS School District are familiar with the color and design of the Sheveron Communicator Newsletter and school budget information insert provided to district residents in advance of the of the District's annual Budget Vote and Board Election in May. Why wasn't the same newsletter, or color and design, used for the library vote?**

**A:** The library vote was not a vote pertaining to the VVS School District, its budget, its levy, or its Board of Education. Using the school district's design, colors, and logo may have been misleading to residents. The library vote was a separate vote not associated with school district funding or governance. The library has sole discretion regarding the type, design, and information contained within its notice and communications.

**Q: Did the library provide any other information to residents prior to the vote?**

**A:** The school district is aware that the president of the library Board of Trustees and the librarian attended public meetings of the Vernon and Verona town boards and shared information regarding the impending vote and the reasons for pursuing a Section 259 library vote.

**Q: Does a school district have any authority to overturn or refuse to accept the results of a Section 259 library vote?**

**A:** No. As a procedural matter under the requirements of the law, a school district is required to accept the results of the vote.

**Q: Can a school district refuse to accept the results of a Section 259 library vote if there are allegations of impropriety?**

**A:** No. As a procedural matter under the requirements of the law, a school district is required to accept the results of the vote. A school district is neither required to investigate any allegations, nor does it have legal standing to challenge the results of the vote. Under Education Law, the school district is acting solely as a mechanism for the vote to take place, as the library does not have the authority or mechanism under the law to conduct a public vote on its own.

**Q: What could happen if a school district refused to accept the results of a Section 259 vote?**

**A:** The school district would be in violation of Education Law, and legal action could be taken against the school district.

**Q: Do the Commissioner's decisions in *Appeal of the Bd. of Educ. of the Rush-Henrietta CSD* or *Appeal of the Bd. of Educ. of the Schroon Lake CSD* apply in this matter and give standing and authority to the school district to submit an appeal to the Commissioner of Education requesting to have the results of the Sherrill-Kenwood Free Library vote overturned or annulled?**

**A:** No. Neither appeal pertains specifically to library votes conducted through Chapter 259. Both the Rush-Henrietta CSD and Schroon Lake CSD involved a request to annul the results of **its own** budget vote (clear legal standing), and not that of a library, which is a separate entity.

**Q: Can a school district itself conduct or order another entity to conduct a recount of the votes after the votes have been tallied and a final count recorded?**

**A:** No. Under Education Law, a school district is required to place all ballots in a sealed and locked storage container, and is prohibited from opening the container for six months unless given the authority or directed to do so by the Commissioner of Education.

**Q: Must all disputes over any district meeting or district-conducted election be referred, by the school district, to the Commissioner of Education?**

**A:** No. The actual language of Education Law Chapter 16, Title 2, Article 41, Part 1, § 2037 states, **in reference to whom these disputes are to be directed:** “All disputes concerning the validity of any district meeting or election or of any of the acts of the officers of such meeting or election **shall** be referred to the Commissioner of Education for determination and his [her] decisions in the matter shall be final and not subject to review.”

**Q: If a dispute exists regarding a Section 259 library vote, or if there are allegations of impropriety, what is the standard by which results may be overturned, and who is most appropriate to challenge and submit an appeal to the Commissioner?**

**A:** According to the Commissioner's Decision in *Appeal of Nahas, 55 Ed Dept Rep, Dec. No. 16,816 (2015)*, “there is a presumption of regularity in the conduct of school district elections. **The burden of proof rests on the person who challenges the results to establish all the facts based upon which he or she seeks to have the commissioner overturn the election results.**” Furthermore, the Commissioner has held that “mere speculation as to the possible existence of irregularities provides an insufficient basis on which to annul election results.”

**Q: I heard that stickers in support of the library were handed out at one of the polling places for the library levy vote. Isn't that electioneering? And doesn't electioneering automatically nullify the results of the vote?**

**A:** In response to the allegation of electioneering:

- a) An election official verified that as individuals were handed their ballot she handed them a sticker from one 8 ½” x 11” sheet of stickers, which were given to her by an individual associated with the library. One sticker stated, “Your Vote Counts,” the other stated, “Love Your Library;”
- b) Electioneering is a legal determination, and whether or not an individual engaged in electioneering is solely determined by the Commissioner of Education upon a submission of a challenge to the vote. As a matter of law, the school district cannot determine on its own whether or not an action constitutes electioneering;
- c) Electioneering in and of itself does not automatically nullify a vote. Whether or not electioneering, if it is determined to have occurred, would result in a nullification of the results of the vote is determined solely by the Commissioner of Education upon a submission of a challenge to the vote. A challenger must prove not only that improper conduct occurred, such as a violation of Education Law or Commissioner's Regulations, but that the improper conduct being alleged actually affected the outcome of the election. Again, the school district does not have the authority to determine either of these and is not authorized to take any action with regard to any nullification of the results of the vote. Both are at **the sole discretion, determination, and direction of the Commissioner of Education.**

**Q: Isn't an election official an employee of the school district, and if that person engaged in improper conduct with regards to voting procedures, doesn't that then give the school district the authority to nullify the results of the library vote?**

**A:** No. The election officials are not employees of the school district but rather individuals, trained and certified as election officials by the Oneida County Board of Elections, who provide a contracted service to the district. Nonetheless, a school district does not have the authority to overturn or nullify the results of a vote. That is at the sole discretion, determination, and direction of the Commissioner of Education

**Q: When presented with allegations of electioneering or impropriety, is the school district required to submit a challenge of the vote to the Commissioner of Education?**

**A:** No. There is no language that the District is aware of in Education Law that either requires or gives the school district the authority or standing to submit such a challenge to the Commissioner of Education when it involves a Section 259 vote. A school district may submit such a challenge when the alleged impropriety involves **its own vote or election**. A Section 259 vote is the library's vote.

**Q: If the school district is not required or does not have standing to submit a challenge to a Section 259 vote, who does?**

**A:** Any party **directly impacted** by the vote has standing to submit a challenge of a Section 259 vote to the Commissioner of Education. In the case of the June 1, 2022 Sherrill-Kenwood Free Library's Section 259 vote, that would include both the Sherrill-Kenwood Free Library and any resident of the school district who would be taxed as a result of such vote.

**Q: Has a challenge of the June 1, 2022 Sherrill-Kenwood Free Library vote been submitted to the Commissioner of Education, and if so, by whom?**

**A:** Yes, a resident of the school district submitted a challenge to the Commissioner of Education.

**Q: What is the status of the challenge of the June 1, 2022 Sherrill-Kenwood Free Library's vote?**

**A:** As part of the challenge, the petitioner requested a stay of imposition of the library tax, approved through the vote. The Commissioner *denied* that request. As such, the imposition of the library tax is required by law to proceed and appear on residents' tax bills unless or until directed otherwise by the Commissioner of Education. The Commissioner of Education has not acted on the other aspects of the challenge.

**Q: Does the District have any information as to when a decision may be made by the Commissioner of Education regarding the remaining challenge?**

**A:** No. The Commissioner will respond to the petitioner and the respondent(s).



**Q: Does the District have any information as to what might happen with the library tax if the library vote is annulled/overtaken by the Commissioner of Education?**

A: No. The Commissioner of Education can take several actions, which cannot be ascertained at this time.

**Q: What is the District's position with regards to the vote, the allegations, and the challenge?**

A: The District is a neutral service provider, obligated by Education Law to provide certain services to the library with regards to its Section 259 vote. In its response to the challenge to the Commissioner of Education, the District affirmed the petitioner's allegation that stickers were handed out by an election official, that the stickers were provided by an individual associated with the library, and that the District did not oppose a nullification/overtake of the results of the vote if the Commissioner decided to do so.

**Q: What recommendations, if any, did the District make to the Sherrill-Kenwood Free Library with regards to the allegations of impropriety and the petitioner's challenge of the results of the vote?**

A: Upon advice of the school district's counsel, the District recommended that, in the interest of preserving the public trust in both the library and the School District, the library acknowledge the impropriety, the role that the library played in providing the stickers to the election official, and the potential impact of the stickers on the results of the vote, and to either submit its own challenge of the results of the vote to the Commissioner of Education or join in the petitioner's challenge.

**Q: What was the library's response to the petitioner's challenge to the Commissioner of Education?**

A: Upon advice of the library's counsel, the library acknowledged handing out the stickers and opposed the petitioner's challenge to annul the results of the vote.

**Q: Did the results of the Sherrill-Kenwood Free Library's vote authorize the library to levy an annual tax in the amount of \$186,700, in perpetuity, upon the residents of the Vernon Verona Sherrill School District?**

A: Yes, unless changed by further proposition(s) and results of the same.

**Q: Can the Sherrill-Kenwood Free Library still pursue, now or in the future, a Chapter 414 vote through the City of Sherrill?**

A: Yes. As an Association Library, the Sherrill-Kenwood Free Library has the option to pursue funding through a Chapter 414 vote or a Section 259 vote.

**Q: If a resident still has concerns with regards to the library's Section 259 vote, to whom should those concerns be addressed?**

FAQ

June 1, 2022 Sherrill-Kenwood Free Library's Section 259 Library Vote

A: Concerns should be addressed to the parties most able to address and take action on those concerns: The Commissioner of Education and the Sherrill-Kenwood Free Library Board of Trustees.