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| REGIONAL SCHOOL DISTRICT NO. 10 | : | |
| BOARD OF EDUCATION, ELLINGTON | : | STATE OF CONNECTICUT |
| BOARD OF EDUCATION, NEW HARTFORD | : | |
| BOARD OF EDUCATION, NEWINGTON | : | DEPARTMENT OF |
| BOARD OF EDUCATION, REGIONAL | : | |
| SCHOOL DISTRICT NO. 16 BOARD OF | : | EDUCATION |
| EDUCATION, and BARKHAMSTED | : | |
| BOARD OF EDUCATION, | : | |
| | : | Petitioners |
| and | : | |
| | : | |
| STATE OF CONNECTICUT DEPARTMENT | : | |
| OF EDUCATION | : | |
| | : | Respondent-agency |
| | : | OCTOBER 3, 2011 |

PETITION FOR DECLARATORY RULING

I. INTRODUCTION

1. Pursuant to Connecticut General Statutes §4-176 and Connecticut Agency Regulations §10-4-21, petitioners Regional School District No. 10 Board of Education, Ellington Board of Education, New Hartford Board of Education, Newington Board of Education, Regional School District No. 16 Board of Education, and Barkhamsted Board of Education hereby petition the State Department of Education to issue a declaratory ruling with regard to the following issues: a) whether “sending” local and regional school districts are required to pay the entire (or any) tuition for resident students attending part-time magnet schools programs, and b) whether “sending” local and regional school districts are required to pay the tuition for resident students attending pre-school magnet school programs, especially

where a school district does not provide pre-school services for its own students. It is respectfully submitted that the Commissioner of Education's determinations via a "Circular Letter" dated April 10, 2011 and/or a Memorandum/Notice concerning "Sheff v. O'Neil Stipulation Funding" dated July 1, 2008 [Attachments A and B] are in error, and that such school districts 1) are not obliged to pay the entire (or any) tuition for resident students attending part-time magnet schools programs, and 2) are not required to pay the tuition for resident students attending pre-school magnet school programs, especially where a school district does not provide pre-school services for its own students. As such, the State Department of Education should issue a declaratory ruling declaring that a) a local or regional school district is not required to pay the tuition for any of its students attending part-time magnet school programs; b) a local or regional school district is not required to pay the tuition for any of its students attending pre-school magnet school programs, especially where said district does not regularly offer pre-school programs to its own students; c) the Department of Education's "Circular Letter" dated April 10, 2011 and Memorandum/Notice concerning "Sheff v. O'Neil Stipulation Funding" dated July 1, 2008 are illegal, invalid, null and void, and will no longer be enforced; and d) any attempt by the State Department of Education to withhold grant monies from a local or regional school district in order to recover monies for non-payment of tuition to pre-school and part time magnet schools was, is, and/or would be illegal.

II. BACKGROUND

2. Petitioner Regional School District No. 10 Board of Education (address: 24 Lyon Road, Burlington, CT 06013) is a regional board of education organized under Conn. Gen. Stat. §10-39 *et seq.*, and is invested pursuant to Conn. Gen. Stat. §§10-47 and 10-220 with the authority and responsibility for implementing the educational interests of the State of Connecticut in Regional School District No. 10 (which consists of the Towns of Burlington and Harwinton) and providing such educational activities as in its best judgment serve the interests of the Region 10 school district. At the relevant times to this suit, certain students residing within Regional School District No. 10 have attended, are attending, and/or will continue to attend the Greater Hartford Academy of the Arts (“GHAA”), which is an interdistrict magnet high school that offers a part-time program, along with the Reggio Magnet School for the Arts and the Montessori Magnet School, which both include a magnet pre-school program.

3. Petitioner Newington Board of Education (address: 131 Cedar Street, Newington, CT 06111-2698) is a local board of education organized and established under the laws of the State of Connecticut, and is invested pursuant to Conn. Gen. Stat. §10-220 with the authority and responsibility for implementing the educational interests of the State of Connecticut in the Town of Newington and providing such educational activities as in its best

judgment serve the interests of the Newington school district. At the relevant times to this suit, certain students residing within the Newington school district have attended, are attending, and/or will continue to attend GHAA and the Greater Hartford Academy of Mathematics and Science (“GHAMAS”), another interdistrict magnet high school that offers a part-time program, along with the Museum Academy, the International Magnet School for Global Citizenship, the Montessori Magnet School, and the University of Hartford Magnet School, which all include a magnet pre-school program.

4. Petitioner New Hartford Board of Education (address: 530 Main Street, New Hartford, CT 06057) is a local board of education organized and established under the laws of the State of Connecticut, and is invested pursuant to Conn. Gen. Stat. §10-220 with the authority and responsibility for implementing the educational interests of the State of Connecticut in the Town of New Hartford and providing such educational activities as in its best judgment serve the interests of the New Hartford school district. At the relevant times to this suit, certain students residing within the New Hartford school district have attended, are attending, and/or will continue to attend the Reggio Magnet School for the Arts magnet pre-school program.

5. Petitioner Ellington Board of Education (address: 47 Main Street, Ellington, CT 06029) is a local board of education organized and established under the laws of the State of Connecticut, and is invested pursuant to Conn. Gen. Stat. §10-220 with the authority and responsibility for implementing the educational interests of the State of Connecticut in the Town of Ellington and providing such educational activities as in its best judgment serve the interests of the Ellington school district. At the relevant times to this suit, certain students residing within the Ellington school district have attended, are attending, and/or will continue to attend GHAA and GHAMAS, along with magnet pre-school programs provided by the Reggio Magnet School, the International Magnet School for Global Citizenship, the Montessori Magnet School, the Discovery Academy, and the Medical Professions and Teacher Preparation Academy Pre-school.

6. Petitioner Regional School District No. 16 Board of Education (address: 207 New Haven Road, Prospect, CT 06712) is a regional board of education organized under Conn. Gen. Stat. §10-39 *et seq.*, and is invested pursuant to Conn. Gen. Stat. §§10-47 and 10-220 with the authority and responsibility for implementing the educational interests of the State of Connecticut in the Region 16 School District (which consists of the Towns of Prospect and Beacon Falls) and providing such educational activities as in its best judgment serve the

interests of the Region 16 school district. At the relevant times to this suit, certain students residing within Regional School District No. 16 have attended, are attending, and/or will continue to attend the Educational Center for the Arts (“ECA”), which is an interdistrict magnet high school that provides a part-time program.

7. Petitioner Barkhamsted Board of Education (address: 65 Ripley Hill Road, Barkhamsted, CT 06063) is a local board of education organized and established under the laws of the State of Connecticut, and is invested pursuant to Conn. Gen. Stat. §10-220 with the authority and responsibility for implementing the educational interests of the State of Connecticut in the Town of Barkhamsted and providing such educational activities as in its best judgment serve the interests of the Barkhamsted school district. At the relevant times to this suit, certain students residing within the Barkhamsted school district have attended, are attending, and/or will continue to attend the Reggio Magnet School for the Arts magnet pre-school program.

8. The respondent agency, State of Connecticut Department of Education is the state agency responsible for, and is Connecticut's agent in, all matters related to education. The State Department of Education serves as the administrative arm of the State Board of

Education, which is responsible for the general supervision and control of the educational interests of the State, which interests include preschool, elementary and secondary education, special education, vocational education and adult education.

a. The State Department of Education operates under the direction of the Commissioner of Education, who is the administrative officer of the Department. The Commissioner administers, coordinates and supervises the activities of the Department in accordance with the policies established by the State Board of Education.

b. In the course of his duties, the Commissioner of Education issues "Circular Letters" which set forth the State's official position on matters within the State's general supervision and control.

9. Under Conn. Gen. Stat. §10-264h and Conn. Gen. Stat. §10-264l, the State Department of Education administers (within available appropriations) a grant program to assist eligible entities with the construction, establishment and operation of inter-district magnet schools. The State Department of Education, through its Commissioner, is responsible for approving and awarding such grants.

10. In accordance with Conn. Gen. Stat. §10-264l, an "interdistrict magnet school

program” is defined as a program which (a) supports racial, ethnic and economic diversity, (b) offers a special and high quality curriculum, and (c) requires students who are enrolled to attend at least half-time. Interdistrict magnet schools must be operated in conformance with the same laws and regulations applicable to public schools.

11. There are two classes of school districts that send students to interdistrict magnet schools:

a. **Participating Districts.** School districts that have decided to “participate” in a magnet school, and may have in place written agreements that cover, among other things, enrollment/student spaces and any tuition charges (if any) that a participating district may pay for each student that it sends to the magnet school.

b. **Non-Participating Districts.** After accommodating students from participating districts in accordance with any enrollment agreement, an interdistrict magnet school operator that has unused student capacity may then enroll directly into its program any interested student. State law (Connecticut General Statutes §10-264l) provides that the local or regional board of education otherwise responsible for educating such student shall contribute funds to support the operation of the interdistrict magnet school in an amount equal to the per-student tuition, *if any*, charged to participating districts.

12. By law, the decision to attend an interdistrict magnet school is made by a parent on behalf of his/her child. The local or regional board of education does not have control over that decision in so far as the school board has no power to change or override a parent's interdistrict magnet school decision. Entrance, admission and attendance at the interdistrict magnet schools are governed by participation agreements (if any) and state law, and may include "lotteries" if there is a space limitation. Ultimately, parents are vested with the decision making authority to enroll (or dis-enroll) a student in an interdistrict magnet school.

III. PART-TIME MAGNET SCHOOL TUITION

13. Specifically, an issue has arisen with regard to the obligations of petitioners **Regional School District No. 10 Board of Education, Regional School District No. 16 Board of Education, Ellington Board of Education, and Newington Board of Education** to pay the full (or any) tuition for resident part-time students enrolled at part-time magnet school programs such as GHAA, GHMAS, and ECA.

a. For example, certain students enrolled and residing in **Regional School District No. 10** attend the part-time program offered at GHAA. By this arrangement, such students attend the District's Lewis Mills High School for a majority of the day; such students then

attend GHAA from 1:00 PM to 4:15 PM, but only Monday through Thursday. It is possible for students attending such a part-time program to graduate simply with the credits that they will earn/obtain from the District's own schools.

b. Certain students enrolled and residing within **Regional School District No. 16** attend a part-time program offered by ECA. Students who attend ECA are dismissed at 11:45 each day. They attend the District's high school (Woodland Regional High School) from 7:35 AM to 11:45 AM (4 hours and 10 minutes) each day, and then attend ECA in the afternoon (1:00PM-4:00PM) for 4 days a week (Monday-Thursday). These students are enrolled in 6 credits (6 classes) at Woodland Regional High School and receive 2 credits from ECA each year. Students at Woodland Regional High School are required to complete 25 credits for graduation. Students attending ECA receive 24 credits from Woodland Regional and the one remaining credit comes from ECA. If a student were not enrolled in ECA, he/she would earn the one remaining credit at Woodland Regional.

c. Certain students enrolled and residing in the **Ellington** school district attend part-time programs offered at GHAA and GHAMAS. Students attending these schools are typically enrolled in 4 courses at Ellington High School. For the students attending GHAMAS, the courses at Ellington High School are scheduled for morning blocks for grades 11 and 12 so that each student completes Ellington High School coursework at approximately 11:30 AM.

Grade 9 and 10 students attend GHAMAS in the morning (7:30AM-10:30AM) and arrive to Ellington High School approximately 11:15 AM. The courses of students attending GHAA are scheduled for morning blocks so that each student completes Ellington High School coursework at approximately 11:30 AM, with the students attending GHAA from 1:00 PM to 4:15 PM Monday through Thursday.

d. Certain students enrolled and residing in the **Newington** school district attend part-time programs offered at GHAA and GHAMAS. Similar to the arrangement in Ellington, such students attend Newington High School for one half the day and then attend GHAA and GHAMAS, as described above. It is possible for such students to graduate simply with the credits that they will earn/obtain from Newington's schools.

14. With regard to the assessment of tuition for such part-time program students, **Regional School District No. 10** has traditionally paid a portion of the tuition, but has charged the balance of the tuition to the parent. Indeed, this alternative is one of the options that was previously made available to sending school districts such as Region 10 by the operator of GHAA. Specifically, Region 10 has annually paid up to \$1,000 per student towards the tuition, with total payments for all such part-time magnet school students not to exceed \$7,000 per school-year. Under this arrangement, the remaining tuition balance is paid by the enrolled

student's parent(s).

a. **Regional School District No. 16** previously had an agreement to send students to ECA. With regard to the assessment of tuition for such part-time program students, Regional School District No. 16 did not pay any tuition for such students, as the parents have been responsible for making such payments. However, Regional School District No. 16 has provided certain transportation for these students, which is generally not required under law.

b. The **Ellington** school district does not have any participation agreements with the magnet school providers. Students are directly enrolled by the magnet schools operators in order to fill the magnet schools' unused capacity.

c. The **Newington** school district has had a long standing agreement to pay \$4,000 per-student in tuition payments for 16 students in the half-day magnet programs, with 8 seats at GHAA and 8 seats at GHAMAS. The total budget for half-day magnet school tuition was not to exceed \$64,000. However, commencing with the 2010-2011 school year, the magnet schools' operator has enrolled more part-time students than previously agreed upon, and has charged Newington for the entire tuition for these students.

15. Previous guidance from the State Department of Education had suggested, if not directly indicated, that parents could be required to pay the tuition for part-time interdistrict

magnet schools.

16. However, the State Department of Education via a “Circular Letter” issued on April 10, 2011 by the Acting Commissioner of Education that was distributed to all local and regional school district superintendents in Connecticut announced the State’s new position that school districts cannot charge back to parents any portion of the tuition costs associated with part-time magnet schools. *See Attachment A.* The State now asserts that sending local and regional school districts may not charge any tuition to parents for part-time magnet school students.

17. Under law (Connecticut General Statutes §10-264I), if a board of education fails to make payment for tuition to a magnet school operator, the State Department of Education may withhold from such board's town, or in the case of regional school districts, towns, Educational Cost Sharing (ECS) grants an amount equivalent to the unpaid tuition owed to the magnet school.

18. As a consequence, the petitioners have been forced into the untenable position of either paying the entire tuition for these part-time magnet school programs or losing ECS monies, even though existing law does not require the petitioners to pay the entire tuition for

such programs. No statute requires the petitioners to pay the entire (or any) tuition for part-time magnet programs attended by students or, more importantly, prohibits such cost sharing.

a. Indeed, if the various provisions making reference to magnet school tuition in Connecticut General Statutes §10-264l were construed to apply to part-time magnet schools, it would lead to an absurd result, namely, local and regional school districts would be held responsible for the same amount of interdistrict magnet school tuition for part-time programs (which are essentially enhancement programs) as for full-time programs.

b. Unfortunately, the tuition amounts being charged to the afore-mentioned petitioners for part-time magnet school programs for 2011-2012 largely mirror the amounts charged for full-time programs.

19. The interpretation by the State Department of Education of the part-time magnet school tuition requirements as manifested by its “Circular Letter” ignores both the law and nature of the programs at issues. For example, GHAA operates a 1) full-time/full-day program and 2) a part-time program (1:00 to 4:15 p.m. every Monday through Thursday). Such a program should not even be covered by the statute governing payment of tuition for magnet schools (Conn. Gen. Stat. §10-264l), since an “interdistrict magnet school program” is defined by that statute as a program “which requires students who are enrolled to attend **at least half-**

time.” For instance, a student attending an interdistrict magnet school program 4 days a week, 3¼ hours day (while attending his/her home school 5 days a week at a least 4 hours a day) is not attending a magnet school program on a “**half-time**” basis. However, the State Department of Education incorrectly asserts that the alleged obligation to pay the tuition applies as long as the magnet school program *operates* at least half the time, regardless of how much the time a student actually spends attending the program. The mere fact that GHAA and GHAMAS may also operate full-time programs should not affect the financial obligations of the local and regional sending districts that send students to such part-time programs.

a. Similarly, the nature of the ECA part-time program (a Monday through Thursday, 1:00-4:00 PM program) further highlights the State Department’s incorrect interpretation of the above mentioned magnet school statutory scheme.

20. There is no provision in the statutes that would limit the ability of a local or regional school district to require payment by parents of a portion (if not all) of the tuition costs for part-time students attending such part-time magnet school programs.

21. Petitioners Regional School District No. 10 Board of Education, Regional School District No. 16 Board of Education, Ellington Board of Education, and Newington

Board of Education are aggrieved by the State's determination with regard to these petitioners' obligation to pay for tuition for students attending part-time magnet school programs, by among other things, being forced to pay the entire tuition for these students or losing ECS monies, even though by law the petitioners are not required to pay the entire tuition. The petitioners will be deprived of monies rightfully belonging to them.

IV. PRE-SCHOOL MAGNET SCHOOL TUITION

22. As described below, petitioners **Regional School District No. 10, Ellington Board of Education, New Hartford Board of Education, Newington Board of Education, and Barkhamsted Board of Education** do not provide "as of right" universal programs for pre-school "regular education" students. However, certain students residing within Regional School District No. 10, the New Hartford school district, the Newington school district, the Ellington school district, and the Barkhamsted school district have attended, are attending, and/or will continue to attend magnet pre-school programs.

a. Petitioner **Region School District No. 10 Board of Education** does not provide pre-school programs for "regular education"/non-special education students.

b. Petitioner **Ellington Board of Education** does not generally offer a regular

education pre-school program. Ellington, however, does offer a “reverse mainstream” special education pre-school program. This program is designed for special education students, but seeks the enrollment of a small number of “typical”/non-disabled peers in order to benefit the special education students. In order to determine regular education student eligibility for the few regular education seats in this program, regular education students are evaluated through “play sessions”. Furthermore, students elected to attend the pre-school program must possess excellent language, motor and social skills. Parents of such selected students pay tuition to the Ellington school district to attend this preschool.

c. Petitioner **New Hartford Board of Education** also does not generally offer a regular education pre-school program. Like Ellington, New Hartford offers a “reverse mainstream” special education pre-school program. This program is designed for special education students, but seeks the enrollment of a few “typical”/non-disabled peers in order to benefit the special education students. A small number of "typical" regular education students attend the program and are selected by lottery.

d. Similarly, petitioner **Newington Board of Education** does not offer a pre-school program to non-special education students, except for a small number of non-disabled peers, who are selected by lottery.

e. While petitioner **Barkhamsted Board of Education** does allow for regular

education students to attend a pre-school program that is operated at its Barkhamsted Elementary School by Shared Services, a cooperative education service center organized under Conn. Gen. Stat. §10-158a, there is limited enrollment (with a lottery) for non-special education students, and Barkhamsted does not provide universal pre-school for its students.

23. These aforementioned petitioners provide the above-mentioned pre-school programs where required to do so under the state and federal laws governing the provision of services to children requiring special education and related services, and are not required to provide such programs to regular education student under state law.

24. Title 10 of the Connecticut General Statutes in the aggregate, and numerous statutes individually (*see, e.g.*, Connecticut General Statutes §§10-15c, 10-184, 10-186, 10-220) provide that local and regional school districts are deemed responsible for educating children who are at least 5 years of age. As such, in Connecticut, school districts are not responsible for educating non-special education pre-school students, namely, those regular education children under the age of five.

25. Conn. Gen. Stat. §10-264(j) provides: “The local or regional board of

education *otherwise responsible for educating such student* shall contribute funds to support the operation of the inter-district magnet school in an amount equal to the per student tuition, *if any*, charged to participating districts.” (Emphasis added). Under the laws governing magnet schools, local and regional school districts cannot be obliged to pay tuition (if any) for students they are not “otherwise responsible” to educate.

26. In light of such laws governing the mandatory student age for school accommodations, local and regional school districts are not obliged to pay tuition of those students choosing to attend pre-school magnet schools, especially where the local or regional school district does not regularly provide pre-school services to its students.

27. Notwithstanding the afore-mentioned statutory language to the contrary, the State Department of Education, via its Memorandum/Notice concerning the “Sheff v. O’Neil Stipulation Funding” dated July 1, 2008, has determined that school districts are responsible for paying for the tuition of pre-school students attending magnet school programs, regardless of whether a school district regularly provides pre-school services to its own students. *See Attachment B.*

28. The State Department of Education's position is inconsistent with the laws governing school accommodations in Connecticut.

a. Indeed, the Connecticut Supreme Court has ruled that public school districts are not required to provide transportation services to preschool children attending charter schools. Board of Education of Town of Hamden v. State Board of Education, 278 Conn. 326, 898 A.2d 170 (2006). In support of this ruling, it was noted that Connecticut's education statutes limit the obligation of local public schools to provide transportation to children of kindergarten age or to children no younger than five years old.

b. Similarly, with the exception of special education students, the obligation of public school districts in Connecticut to provide any school accommodations is limited to children of kindergarten age and over.

29. As a result, petitioners Regional School District No. 10, Ellington Board of Education, New Hartford Board of Education, Newington Board of Education, and Barkhamsted Board of Education are aggrieved by the State Department of Education's determination with regard to these petitioners' obligation to pay for tuition for students attending pre-school magnet school programs, by among other things, being forced to pay the tuition for pre-school students or losing ECS monies, even though by law these petitioners are

not required to pay the such tuition. These petitioners have been and/or will be deprived of monies rightfully belonging to them.

IV. LEGAL CLAIMS: DECLARATORY RULING

30. The issues in dispute are a) whether “sending” local and regional school districts are required to pay the entire (or any) tuition for students attending part-time magnet schools programs, and b) whether “sending” local and regional school districts are required to pay the tuition for pre-school magnet school students, especially where a school district does not provide pre-school services for its own students.

31. The State Department of Education’s actions raise actual bona fide and substantial questions regarding, among other things, the rights and obligations of the petitioners to pay for said magnet school tuition. The petitioners respectfully assert that the State Department of Education’s actions are inconsistent with state law and the statutory duties of the petitioners.

32. The State Department of Education has effectively taken the position that “sending” local and regional school districts, such as the petitioners, are responsible for payment of said tuition; this new State Department of Education position can be enforced

through the withholding of ECS grant monies owed to the petitioners.

33. The issues involved in this petition relate to the proper roles of the local and regional boards of education vis-à-vis the State Department of Education in the provision of and payment for educational services, and the ability of the State to shift financial responsibility for educational expenses to the towns.

34. The petitioners have a legal and equitable interest in the issues raised in this petition in that the petitioners will be faced with having to pay for tuition charges for which they should not be responsible, whether by paying for such tuition directly or having the State of Connecticut withhold ECS grant monies from them. The petitioners will be deprived of monies rightfully belonging to them.

35. The dispute has affected substantial public interests, namely, the education of students within the towns within the petitioners' school districts, and the funding of education as a whole in these towns. By paying for matters they are not required to finance, the petitioners will have less resources to expend on the education of their own students. In addition, as previously mentioned, the dispute relates to the proper roles of the local and

regional boards of education and the State in the provision of and payment for educational services, and the ability of the State to shift financial responsibility for educational expenses to local and regional school districts.

36. The petitioners have either named as parties or provided notice to all persons reasonably having an interest in the subject matter of this petition.

37. There are no other remedies which the petitioners can or must exhaust. Indeed, the petitioners had filed a declaratory judgment action in the Superior Court that is similar to this instant petition for a declaratory ruling. The State Department of Education (via the Office of the Attorney General) has filed a motion to dismiss the lawsuit, asserting, among other things, that the petitioners must first make a request of the State Department of Education for a declaratory ruling before the petitioners may proceed in the courts.

38. There are actual bona fide and substantial questions and issues in dispute requiring settlement. The relief requested herein should be granted to resolve the questions and decide the issues raised in this petition and to prevent the bona fide and substantial danger of loss to the petitioners and to remove the uncertainty of their rights.

PRAYER FOR RELIEF

WHEREFORE, the petitioners hereby request that this State Department of Education issue the following relief:

1. A declaratory ruling declaring that a local or regional school district is not required to pay the tuition for any of its students attending part-time magnet school programs.

2. A declaratory ruling declaring that a local or regional school district is not required to pay the tuition for any of its students attending pre-school magnet school programs, especially where said district does not regularly offer pre-school programs to its own students.

3. A declaratory ruling declaring that the State of Connecticut Department of Education's "Circular Letter" dated April 10, 2011 and/or its Memorandum/Notice concerning the "Sheff v. O'Neil Stipulation Funding" dated July 1, 2008 [Attachments A and B] are illegal, invalid, and null and void, and will no longer be enforced.

4. A declaratory ruling declaring that any attempt by the State Department of Education to withhold grant monies from a local or regional school district in order to recover

monies for non-payment of tuition to pre-school and part time magnet schools was, is, and/or would be illegal.

**PETITIONERS - REGIONAL SCHOOL DISTRICT NO. 10
BOARD OF EDUCATION, ELLINGTON BOARD OF
EDUCATION, NEW HARTFORD BOARD OF
EDUCATION, NEWINGTON BOARD OF EDUCATION,
REGIONAL SCHOOL DISTRICT NO. 16 BOARD OF
EDUCATION, and BARKHAMSTED BOARD OF
EDUCATION**

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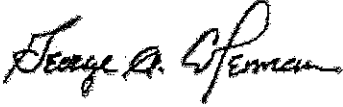


STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION



Series: 2010-2011
Circular Letter: C-11

TO: Superintendents of Schools

FROM: George A. Coleman, Acting Commissioner of Education 

DATE: April 10, 2011

SUBJECT: Tuition Payments for Part-time Interdistrict Magnet Programs

The Connecticut State Department of Education (CSDE) has recently received numerous inquiries regarding district responsibility for tuition costs associated with student enrollment in part-time interdistrict magnet programs operated by a regional educational service center (RESA). The purpose of this circular letter is to clarify district responsibility for these tuition costs.

The general assembly recently reaffirmed its expectation that a sending school district pay the tuition costs associated with student enrollment in an interdistrict magnet school operated by a RESA by enacting Section 42 of P.A. 07-3 of the June Special Session, *An Act Concerning Implementing the Provisions of the Budget Concerning Education*. That section is codified as Connecticut General Statutes (C.G.S.) Section 10-264l(k) and provides, in relevant part, as follows:

“ . . . For the fiscal year ending June 30, 2011, and each fiscal year thereafter, any tuition charged to a local or regional board of education by a regional educational service center operating an interdistrict magnet school for any student enrolled in such interdistrict magnet school shall be in an amount equal to the difference between (i) the average per pupil expenditure of the magnet school for the prior fiscal year, and (ii) the amount of any per pupil state subsidy calculated under subsection (c) of this section plus any revenue from other sources calculated on a per pupil basis. If any such board of education fails to pay such tuition, the commissioner may withhold from such board's town or towns a sum payable under section 10-262i in an amount not to exceed the amount of the unpaid tuition to the magnet school and pay such money to the fiscal agent for the magnet school as a supplementary grant for the operation of the interdistrict magnet school program.”

The parent choice language of C.G.S. Section 10-264l(j) similarly requires a sending district to pay tuition costs associated with resident students' enrollment in an interdistrict magnet program on the same basis as participating districts. That section provides, in relevant part:

“ . . . The local or regional board of education otherwise responsible for educating such student shall contribute funds to support the operation of the interdistrict magnet school in an amount equal to the per student tuition, if any, charged to participating districts.”

ATTACHMENT A

Circular Letter: C-11

April 10, 2011

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For purposes of the tuition requirement and other magnet school provisions of C.G.S. Section 10-264i, the statute defines an interdistrict magnet school program as a "program which (i) supports racial, ethnic and economic diversity, (ii) offers a special and high quality curriculum, and (iii) requires students who are enrolled to attend at least half-time." Based on this plain language, part-time programs fall within the magnet school provisions, including the provisions regarding tuition, as long as the program operates at least half the time.

Notwithstanding the statutory language, some sending districts have charged the tuition costs associated with a part-time, partial tuition interdistrict arts magnet school to the parents of students attending those programs. The statute, however, does not provide any basis for this exception to district responsibility for tuition costs. The statute requires the sending district to pay tuition costs for all interdistrict programs operated by a RESC, which include part-time programs that operate at least half the time. There is no limiting language that exempts a district from this responsibility based on the program theme. Accordingly, it is expected that districts will not charge back to parents those tuition costs incurred as a result of student enrollment in any part-time interdistrict magnet programs that operate at least half the time, regardless of theme.

Please contact Mark Linabury, Chief, Bureau of Choice Programs, at 860-713-6556 or by e-mail at mark.linabury@ct.gov or William Magnotta, Magnet Schools Program Manager, at 860-713-6575 or by e-mail at william.magnotta@ct.gov, if you have further questions.

GAC:rca



STATE OF CONNECTICUT
STATE BOARD OF EDUCATION



July 1, 2008

RE: Sheff v. O'Neill Stipulation Funding

The Stipulation and Proposed Order in the matter of Sheff v. O'Neill has now been signed by Judge Berger and is an official order of the Superior Court. Pursuant to its terms, for the school year 2008-2009, 19 percent of Hartford minority students must be educated in reduced isolation settings, as defined in the Stipulation. If these enrollment targets are not met, the State of Connecticut could be found in default and subject to sanctions, including the possibility of the Court designating a special master to integrate Hartford schools, with or without the support of local communities to achieve this goal.

This new agreement replaces the prior stipulation which failed, despite our best efforts over four years, to reduce the racial, ethnic and economic isolation of Hartford students. While the new agreement continues to rely on voluntary participation of Hartford and suburban towns, we are all participants in this effort and must try harder to reach the goal of reducing the number of children who attend school in these settings. I recognize that this responsibility may mean additional costs to suburban towns; however, this cannot be used as an excuse for not complying with the Sheff mandate. Recognizing this, the legislature has adopted changes to the law, which will require that students have the opportunity to attend magnet schools and that these schools are financed to a level which will enable them to continue to operate.

Components of the new Stipulation also include the formation of a new Regional School Choice Office (RSCO); the development of a Comprehensive Management Plan; and the implementation of a "demand-based" system by the fifth year of the agreement for ensuring sufficient integration of Hartford's schools. Collectively, these components will continue to rely on voluntary means, primarily through magnet schools and Open Choice, to integrate Hartford's schools. The new financial and policy frameworks developed over the past two years in the General Assembly are also designed to sustain this voluntary effort.

This letter, which is being sent to chief executive officers, superintendents of schools and local board chairpersons of education and finance in the Sheff region, is to advise you of the newest 2008 obligations with regard to your students' attendance at interdistrict magnet schools and the payment of tuition to those schools. It is also intended to alert you to the fact that in the fall of 2008, your district will receive an invoice detailing the amount of additional tuition money your community will be obligated to pay for students attending RESC operated interdistrict magnet schools for 2008-2009 under statutes passed this spring.

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ATTACHMENT B

New Funding Requirements for Magnet Schools

New funding provisions for magnet schools were passed in the 2008 regular session of the General Assembly. Together with changes made in July 2007, these new provisions alter and expand the terms and conditions under which districts send students to magnet schools and pay tuition for them.

The purpose of the 2008 provisions is twofold: (1) to ensure that the State meets the goals of the Sheff agreement next year and thereafter; and (2) to reduce and eventually eliminate the need for supplemental grants to RESCs which operate magnet schools (a practice that has been in place for well over a decade). Historically, these supplemental grants represented payment for tuitions not charged to or collected from participating districts but paid by the State on a temporary basis as a means of encouraging districts to participate.

2008 Funding Provisions

Ultimately, the new provisions will require the payment of tuition by local boards of education with students attending out-of-district magnet programs. If these payments are not made by boards of education, current statute gives the State Department of Education (SDE) the authority to withhold the amount of the unpaid tuition from the town's April 2009 ECS grant payment and to pay these funds to the fiscal agent of the magnet school. These provisions are described below.

Magnet Funding for Magnets Opened before 2008

For *existing* RESC-operated magnet schools (whether students attend them pursuant to partnering agreements or under parent choice), tuition must be charged in an amount equal to at least 75 percent of the difference between: (1) the average per pupil expenditure of the magnet school for the prior fiscal year, and (2) the amount of any per pupil state subsidy calculated under Sec. 10-264i plus any revenue from other sources calculated on a per pupil basis, provided no increase in tuition charged on a per pupil basis for 2008-2009 shall be more than 10 percent of that charged for the previous fiscal year. As noted, if any portion of this tuition is not paid by the board of education, that amount will be withheld from the town's April 2009 ECS grant payment.

New Sheff Magnets Opening in 2008-2009

To assist the State in meeting its Court-ordered Sheff goals, four new RESC-operated magnet schools will open this September. Pursuant to Sec. 14 of P.A. 08-170, these new schools, as determined by the Commissioner to be Sheff schools, may operate for the 2008-2009 school year without "participation agreements" with surrounding districts. These schools may also enroll students directly from any district, without having to seek approval from the sending district to do so, or enter into a new participation agreement. The tuition charged will be in an amount equal to one hundred percent of the difference between the estimated per pupil cost less the state magnet grant pursuant to Sec. 10-264i of the General Statutes plus any revenue from other sources as determined by the magnet school operator.

Again, if any board fails to pay the tuition for these students, the SDE will withhold the amount of unpaid tuition from the town's April, 2009 ECS grant payment.

Special Provisions

In addition, Sec. 17 of P.A. 08-170 also requires districts to provide opportunities for students to attend interdistrict magnet schools in a number that is:

- (1) at least equal to the number specified in any prior written agreement with an inter-district magnet school operator; or
- (2) at least equal to the average number of students that the participating district enrolled in that magnet school during the previous three school years.

This provision is intended to ensure that magnet school enrollments do not *decrease* as districts work their way through the system of tuition payments and may be tempted not to send students to magnet schools as a way of offsetting the new costs associated with magnet tuition.

Invoices for 2008 Tuition Payments

Process

As in the past, the Capitol Region Education Council (CREC) will calculate the amount of magnet tuition owed by sending districts. During the fall of 2008, CREC will forward bills to those districts in the amounts reflecting the new provisions described above. CREC will also share this information with the Department of Education. We anticipate that by November 30, 2008, we will have data showing which local boards have failed to agree to pay the appropriate tuition for students attending magnet schools from their districts, and will, therefore, have those funds deducted from their town's April 2009, ECS payment. Once the SDE receives the complete list of those deductions, we will provide this information to the towns.

Pre-K Tuition

Please note that in the past there has been confusion about tuition for Pre-K students attending magnet schools. Under the new provisions outlined above, you will be billed for Pre-K students attending magnet schools whether or not your district maintains Pre-K as a grade, and that tuition must be paid for these students. Please also note that you will be entitled to an ECS credit for these students as long as the tuition is paid and the student is enrolled in your district.

Comprehensive Management Plan and Financial Policy Framework

The Sheff Stipulation requiring voluntary student participation in desegregated educational settings and the funding mechanisms needed to support it are a matter of law. In order to encourage voluntary participation on the part of school districts and students, the state has contributed consistently to supplementing magnet school tuitions in the past, and did so again this year in the amount of \$7.9 million. The lack of available funding and the absence of legislative authority dictates that there

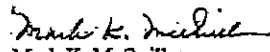
will be no supplemental funding grants for the new Sheff magnets for the 2009 operating year. Magnet school operators' applications for new schools will be approved in part, based on a budget that indicates the school's requirement to collect tuition from resident school districts. In the absence of supplemental grants for the 2009 school year and beyond, magnet schools will be required to bill, and school districts will be obligated to pay, the tuition authorized by law, equal to the difference between the state grant and the amount required to deliver the magnet school program and services. It is also important to note that the 10 percent increase districts face with regard to existing schools will still not cover the existing magnet school shortfall, and the SDE will again have to reallocate funds to cover any remaining balance by way of an additional supplemental grant.

Second, please regard 2008-2009 as a time to evolve into a more efficient, cost-effective system for reducing racial isolation in Hartford. It is vital that we use this transitional year to develop a Comprehensive Management Plan, create a new financial framework and incentive system to support it, and prepare a new financial package for the General Assembly to consider in the 2009 session.

Finally, I would ask you to think about the rightness of partnering with us to meet the goals outlined in the 2008 Sheff Stipulation. These goals have eluded our state since 1996, and they are vital to the opportunities and quality of life we want for all children. All of us have an ethical obligation to do this work, but we also have the opportunity to do this work together, voluntarily. My appeal to you, therefore, is that you use this letter to begin a discussion with members of your community about Sheff and review how, precisely, you can and must work with us to implement this new and still evolving legislative and policy framework.

Thank you for your cooperation in this matter. Please know that I will be writing to you again in a few weeks to provide you with background information that will prove useful in explaining Sheff to the residents of your community. In the interim, if you have any questions, please contact Kathy Demsey in the Sheff Office at the State Department of Education, at (860) 713-6542.

Sincerely,


Mark K. McQuillan
Commissioner of Education

MKM:kf

cc: Robert Genuario, Secretary, Office of Policy & Management
George Coleman, Deputy Commissioner of Education
Bruce Douglas, Executive Director, CREC
Kathy Demsey, Education Consultant, Sheff Office, SDE

G:kj/Magnet Tuition Letter 7-1-08

REGIONAL SCHOOL DISTRICT NO. 10 :
BOARD OF EDUCATION, ELLINGTON : **STATE OF CONNECTICUT**
BOARD OF EDUCATION, NEW HARTFORD :
BOARD OF EDUCATION, NEWINGTON : **DEPARTMENT OF**
BOARD OF EDUCATION, REGIONAL :
SCHOOL DISTRICT NO. 16 BOARD OF : **EDUCATION**
EDUCATION, and BARKHAMSTED :
BOARD OF EDUCATION, :
Petitioners :
and :
STATE OF CONNECTICUT DEPARTMENT :
OF EDUCATION :

Respondent-agency : OCTOBER 3, 2011

CERTIFICATE RE: NOTICE

Pursuant to Connecticut Agency Regulations §10-4-21(b)(3), the petitioners in the above-captioned case hereby certify that all interested persons have been joined as parties or have been given reasonable notice thereof, as set forth herein:

1. **State of Connecticut Department of Education**, by regular mail and by certified mail, return receipt requested (nature of interest: respondent to instant petition).
2. **Attorney General George Jepsen**, by certified mail, return receipt requested (nature of interest: general supervision/statutory interest).
3. **Mr. George Coleman, Acting Commissioner of Education**, by certified mail, return receipt requested (nature of interest: general supervision/statutory interest, chief


executive officer of respondent-agency).

4. **Town of Burlington**, by certified mail, return receipt requested (nature of interest: town within school district and member of petitioner Region 10).
5. **Town of Harwinton**, by certified mail, return receipt requested (nature of interest: town within school district and member of petitioner Region 10).
6. **Town of Beacon Falls**, by certified mail, return receipt requested (nature of interest: town within school district and member of petitioner Region 16).
7. **Town of Prospect**, by certified mail, return receipt requested (nature of interest: town within school district and member of petitioner Region 16).
8. **Town of Newington**, by certified mail, return receipt requested (nature of interest: town of petitioner school district).
9. **Town of New Hartford**, by certified mail, return receipt requested (nature of interest: town of petitioner school district).
10. **Town of Ellington**, by certified mail, return receipt requested (nature of interest: town of petitioner school district).
11. **Town of Barkhamsted**, by certified mail, return receipt requested (nature of interest: town of petitioner school district).

12. **Connecticut Association of Boards of Education**, by certified mail, return receipt requested (nature of interest: advocacy group for Connecticut school districts).
13. **Connecticut Conference of Municipalities**, by certified mail, return receipt requested (nature of interest: advocacy group for Connecticut's municipalities).
14. **Capitol Regional Education Council**, by certified mail, return receipt requested (nature of interest: operator of magnet schools at issue in this action).
15. **Area Cooperative Educational Services**, by certified mail, return receipt requested (nature of interest: operator of a magnet school at issue in this action).

PETITIONERS

By


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