

V.A.

**CONNECTICUT STATE BOARD OF EDUCATION
Hartford**

TO BE PROPOSED:

March 2, 2016

RESOLVED, That, with respect to the Connecticut General Statutes (C.G.S.) Section 10-4b Complaint filed on July 14, 2015 by certain residents of Regional School District Number One of Litchfield County against the Board of Education of Regional School District Number One of Litchfield County (the "Region One Board"), the State Board of Education adopts the recommendation of the Commissioner, and (a) finds that there is no reasonable cause to believe that the Region One Board has failed, or is unable, to implement the educational interests of the State of Connecticut as defined in C.G.S. Section 10-4a, (b) dismisses the Complaint, and directs the Commissioner to take the necessary action.

Approved by a vote of _____, this second day of March, Two Thousand Sixteen.

Signed: _____
Dianna R. Wentzell, Secretary
State Board of Education

CONNECTICUT STATE BOARD OF EDUCATION
Hartford

TO: State Board of Education

FROM: Dianna R. Wentzell, Commissioner of Education

DATE: March 2, 2016

SUBJECT: Connecticut General Statutes Section 10-4b Complaint re: Regional School District Number 1 of Litchfield County

Introduction and Procedural Matters

On July 14, 2015, seven residents of Regional School District Number 1 of Litchfield County (Region One) filed a Complaint against the Regional School District Number 1 Board of Education (“Region One Board”) pursuant to Connecticut General Statutes (C.G.S.) Section 10-4b. The Complainants are all officials of the Town of Canaan, including three Selectmen, three members of the Board of Education, and a member of the Board of Finance. Canaan is one of the six towns which constitute Region One, the others being North Canaan, Kent, Sharon, Salisbury, and Cornwall. As residents of Region One, the Complainants are proper parties to file a C.G.S. Section 10-4b Complaint.

The Complaint has been investigated. The Commissioner’s responsibility now is to submit to the State Board: (a) the findings of fact; (b) the Commissioner’s judgment as to whether the facts indicate that reasonable cause exists to believe that the Region One Board has failed to implement the educational interests of the state; and (c) the Commissioner’s recommendations for action, if any. Reg. Conn. State Agencies Section 10-4b-7 (a), (b).

Where the findings of a Section 10-4b investigation indicate that there “is no reasonable cause to believe that a board of education has failed . . . to implement the educational interests of the state,” the State Board is required to dismiss the Complaint. Reg. Conn. State Agencies Section 10-4b-8 (1). As discussed below, having reviewed the findings of the investigation, I am recommending that you dismiss the Complaint because there is no reasonable cause to believe that the Region One Board failed to implement the educational interests of the State.

C.G.S. Section 10-4b provides a remedy for residents of school districts who claim that local or regional boards of education are not implementing the educational interests of the state as set forth in Section 10-4a. Section 10-4b provides, in part, as follows:

(a) Any resident of a local or regional school district . . . who has been unable to resolve a complaint with the board of education of such . . . school district may file with the State Board of Education a complaint . . . alleging the failure or inability of the board of education . . . to implement the educational interests of the state in

accordance with section 10-4a. If the state board, or its designee, finds such complaint to be substantial, it shall . . . designate an agent who shall conduct a prompt investigation . . . and report the results of such investigation to the state board. . . . If the findings indicate that there is reasonable cause to believe that a local or regional board of education has failed or is unable to make reasonable provision to implement the educational interests of the state as defined in section 10-4a . . . said state board shall conduct an inquiry [and] . . . shall give the board of education . . . involved the opportunity to be heard in accordance with the provisions of sections 4-176e to 4-184. . . .

In this case, the Commissioner found the Complaint to be substantial in accordance with the statute and State Board regulations and ordered an investigation, which has now been completed. The Investigative Report is attached to this Memorandum.

As indicated in the passage of Section 10-4b quoted above, if the State Board determines after a Section 10-4b investigation that there is reasonable cause to believe a local board has failed to implement the educational interests of the state, it shall conduct an “inquiry.” Such an inquiry, if ordered, consists of a hearing in accordance with the contested case provisions of the Uniform Administrative Procedure Act (specified above), and the State Board of Education (State Board) Rules of Practice. See Reg. Conn. State Agencies (R.C.S.A.) 10-4-11 through 10-4-19. The Chairperson of the State Board may designate a subcommittee of three members of the State Board to serve as a hearing panel. R.C.S.A. Sec. 10-4b-9(d). The inquiry must be completed within thirty (30) business days of the ordering of the inquiry. Id. (g). If a hearing panel conducts the inquiry, the hearing panel must submit a report to the State Board which shall include its conclusions of law and fact and its proposed decision within ten (10) business days following the close of evidence and filing of briefs. Id. (f). The State Board shall render a final decision in accordance with Connecticut General Statutes sections 4-179 and 4-180 within twenty-five (25) business days following the submission of a report by the hearing panel or at its next regularly scheduled meeting if the State Board conducts the inquiry. Id. (h).

The Commissioner must be admitted as a party to the proceedings for the purpose of representing the educational interests of the state. Id. (a).

If, after conducting an inquiry, the State Board finds that a board of education has failed to implement the educational interests of the state, the State Board may require a remedial process, issue appropriate orders, and seek an order from the Superior Court to compel compliance with its orders. C.G.S. Section 10-4b(b),(c); R.C.S.A. Section 10-4b-10.

Overview of Region One, the Complaint and the Investigation

Regional School District Number 1 of Litchfield County was established by several Special Acts of the Connecticut General Assembly, beginning with Special Act 438 in 1937. The six towns which constitute Region One (the “Region One Towns”) are served by the Housatonic Valley Regional High School for education of their ninth through twelfth grade students. The

Housatonic Valley Regional High School is operated by the Region One Board which employs a Superintendent of Schools pursuant to a contract of employment.

Each of the Region One Towns also maintains its own K-8 elementary school which is governed by an autonomous town board of education. In accordance with Special Act 405 (1959), the Region One Board may administer programs for the elementary, junior high, and high school levels as requested by Region One Towns. Region One has established the Regional Schools Service Center (RSSC) to provide services which can be better provided on a cooperative basis than by a town alone. The Region One Towns participate in the administration of the RSSC through an agreed upon series of policies designated the 7000 Series Policies.

The Region One Superintendent of Schools, Patricia Chamberlain, serves as the Superintendent of Schools for each of the Region One Towns by virtue of her employment agreement with Region One and the 7000 Series Policies.

The Complaint arose out of negotiations between the Region One Board and the Region One Towns for an agreement to jointly employ a superintendent of schools. The authority for school districts to jointly employ a superintendent of schools is set forth in C.G.S. Section 10-157a. Region One had received the opinions of two attorneys that the existing legal arrangement by which Ms. Chamberlain was employed to serve as Superintendent for Region One and the Region One Towns did not comply with C.G.S. Section 10-157a. At the time the Complaint was filed, a joint employment agreement had been agreed to by the Region One Board and the boards of education of all Region One Towns except Canaan. The Canaan Board of Education signed the joint employment agreement on July 22, 2015, eight days after the Complaint was filed. However, the Complainants, who are individual residents of Region One, did not withdraw the Complaint, and it was investigated as set forth in the Investigative Report.

The Complainants allege they initiated the Complaint principally due to the Region One Board's: (1) decision to change the previously agreed method for member boards of education to receive the services of a superintendent of schools and other services from Region One; (2) coercing member boards to sign a joint employment agreement for the superintendent by indicating their district will be deprived of previously agreed upon services if they did not; and (3) providing for changes in the governance structure of schools of the member boards in the guise of provisions in the proposed joint employment agreement. The Complainants also argued that the provision in the joint employment agreement establishing that the Region One Towns and the Region One Board share equally in the cost of the superintendent's contract violated Special Act 405 (1959), which provides that the costs of the operation of Region One be assessed on a proportional basis based on enrollment. Other allegations are discussed in the accompanying Investigative Report.

The educational interests of the state for purposes of a Section 10-4b Complaint are set forth in C.G.S. Section 10-4a. The Complainants allege the actions of the Region One Board are in violation of the following educational interests of the state: (i) C.G.S. Section 10-4a(1), which provides that each child shall have for the period prescribed in the general statutes equal opportunity to receive a suitable program of educational experiences, and/or (ii) C.G.S. Section 10-4a(4), which provides that the mandates in the general statutes pertaining to education within the jurisdiction of the State Board of Education be implemented.

The investigation consisted of a review of written submissions by the Complainants and the Region One Board. These included the Complaint; Region One's written response to the Complaint; a rebuttal to the Region One Board's response filed by Complainants; and a written response to the Complainant's rebuttal filed by the Region One Board. The filings of the Complainants and the Region One Board included numerous attachments. In addition, the investigation included a review of certain Canaan Board of Education meetings on YouTube, and a review of the Region One Website.

The investigation of the Complaint determined that the evidence did not establish that the Region One Board attempted to coerce the Canaan Board of Education to participate in the joint employment agreement, and the differences as to the various terms of the joint employment agreement did not implicate the educational interests of the state as set forth in C.G.S. 10-4a. The detailed findings are set forth in the Investigative Report which is submitted with this memorandum.

Recommendation

For all of the reasons set forth in the accompanying Investigative Report, it is recommended that the State Board of Education:

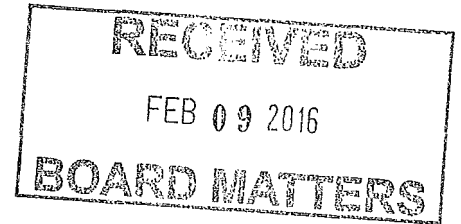
(a) find that there is no reasonable cause to believe that the Board of Education of Regional School District Number One of Litchfield County has failed, or is unable, to implement the educational interests of the State of Connecticut as defined in Section 10-4a of the Connecticut General Statutes, and, accordingly,

(b) dismiss the Complaint.

Prepared by:

Louis B. Todisco, Attorney
Division of Legal and Governmental Affairs

Connecticut State Board of Education
Hartford



INVESTIGATIVE REPORT

In the Matter of

Certain Residents of Regional School District Number 1 of Litchfield County

v.

Regional School District Number 1 Board of Education

February 8, 2016

The undersigned here submits to the Commissioner of Education the facts proposed to be found and conclusions proposed to be drawn pursuant to the investigation of the Connecticut General Statutes (C.G.S.) Section 10-4b Complaint described herein.

Procedural History.

1. On July 14, 2015, seven residents of Regional School District Number 1 of Litchfield County (“Region One”) filed a Complaint against the Regional School District Number 1 Board of Education (“Region One Board”) pursuant to C.G.S. Section 10-4b for failing to uphold the educational interests of the state in accordance with C.G.S. Section 10-4a. [Complaint, p.1]
2. The Complainants include three Canaan Selectmen, three members of the Canaan Board of Education, and a member of the Canaan Board of Finance, who, as residents of Region One, are proper parties to file this Complaint. [Complaint, p.9; C.G.S. Section 10-4b]
3. The Complaint was determined to be substantial by the Commissioner of Education pursuant to State Board of Education regulations on August 12, 2015, and an investigation was ordered.
4. The undersigned has conducted an investigation which included a review of: the Complaint; the Response of the Region One Board (Response); the Complainants’ Rebuttal to the Response of the Region One Board (Rebuttal); the Rebuttal Response of the Region One Board (Rebuttal Response); documents attached to the foregoing; the Region One website; and portions of Canaan Board of Education meetings on May 5, 2015 and July 21, 2015 on YouTube.

Background Information on Region One.

5. Region One was created through Special Act 438 (1937) which provided that any three or more of the towns of Sharon, Salisbury, North Canaan, Canaan, Cornwall, and Kent may establish the “Regional High School District Number 1 of Litchfield County.” [Special Act 438, Section 1 (1937)]
6. Each of the six towns named in Special Act 438 (the “Region One Towns”) became a part of the district and still comprise Region One today. [Response, p.1. *See* Regional School District One Website (Region One Website), About Region 1]
7. Each of the Region One towns, however, maintains its own K-8 elementary school governed by an autonomous town board of education. [Region One Website, “The School System”]
8. Each of the Region One towns is served by Housatonic Valley Regional High School for education of its 9th through 12th grade students. [Response, p. 1; Region One Website, “Superintendent’s Office”]

9. Housatonic Valley Regional High School is governed by the Region One Board. [Region One Website, “The School System”]
10. The Superintendent of Schools for Region One, Patricia Chamberlain, also serves as the Superintendent of Schools for each of the Region One Towns pursuant to her contract of employment with the Region One Board. [Complaint, p. 3; Response, p.2 and Exhibit (Ex.) A]
11. Special Act 405 (1959) renamed Region One the “Regional School District Number 1 of Litchfield County,” authorized the Region One Board to provide educational opportunities beyond the sixth grade, and to “institute and administer such special education programs for elementary, junior high or high school level as the board or boards of education of any town or towns belonging to said district may request” [Special Act 405 (1959) Sections 1, 2, 3]
12. In accordance with Special Act 405 (1959), the Regional Schools Service Center (RSSC) was established to serve “the special needs of the six local school districts and their regional high school district which can be met more effectively on a cooperative or shared basis than might be possible separately.” [Region One Website, “What is RSSC.”]
13. The six autonomous elementary schools of Region One share services such as special education, curriculum development, professional development, teacher evaluation, personnel services, testing, and general administration. [Region One Website, “Superintendent’s Office”]
14. The boards of education of the Region One Towns have adopted a series of policies (the “7000 Series Policies”) as the written agreement by which they join the Region One Board in administering the RSSC. [Response, p. 2. *See* Complaint, Attachment 3, Regional School District Number 1 7000 Series Policies; Policy 7000, p. 3]
15. The 7000 Series Policies provide for an advisory committee, the All Board Chairs (ABC) Committee, which is comprised of the chairperson of each of the member boards of education including the Regional Board. [*Id.* Policies 7110, 7111]
16. The 7000 Series Policies provide that the Superintendent of Schools directly and indirectly serves each of the member boards of education and the Region One Board and that the selection of a Superintendent of Schools shall be a function of the Region One Board. [*Id.* Policy 7210]
17. The ABC Committee has been delegated various responsibilities with respect to the Superintendent of Schools, including: making “recommendations to the Regional Board regarding the search process, final candidates for the position, and other related matters”; “evaluating the performance of the Superintendent”; and “recommending to the Regional Board the salary for the Superintendent’s initial or successor contract and the essential

terms and conditions of the Superintendent's employment contract with the Regional Board." [Id. Policies 7210, 7211 and 7212]

18. With respect to the allocation of Region One's operating costs, Special Act 405 (1959) provides: "Each town which shall join said district shall pay its proportional share of the cost of building, equipping and operating each regional school until such costs have been paid in full. Such payments shall be prorated among the towns comprising said district on the basis of the average daily membership of each school of pupils from each of such towns during the preceding school year" [Special Act 405 (1959), Section 5]

The C.G.S. Section 10-4b Complaint.

19. The Complaint contests provisions of the agreement between the Region One Board and Region One Towns to jointly employ a superintendent of schools ("joint employment agreement" or "JEA") and statements attributed to Superintendent of Schools Patricia Chamberlain. [C.G.S. Section 10-157a (Superintendent for more than one town); Complaint, pp. 3-9]
20. According to Complainants, the Complaint was brought because of the following alleged conduct by the Region One Board: "1. [changing] the previously agreed method for the member boards of education . . . to receive, among other things, Superintendent of School . . . services from Region One: 2. coercing member boards to sign a joint employment agreement for the Superintendent . . . by indicating their district will be deprived of services provided for in prior agreements between the districts if they fail to sign a new agreement; and 3. providing for changes in the governance structure of schools of the member boards in the guise of provisions in the proposed [joint employment agreement]." [Complaint p. 1]
21. The Complaint addresses the third, fourth, and fifth revisions to the proposed joint employment agreement and relates that the boards of education of all Region One Towns, except Canaan, and the Region One Board had approved the third and fourth revisions. [Complaint, pp. 3-4]
22. The Complaint alleges that the fifth revision failed to address three issues raised by Canaan Selectmen: (1) whether the committee responsible for interviewing and selecting candidates for superintendent shall submit a single finalist or more than one finalist to member boards for consideration; (2) whether the committee negotiating the superintendent's contract must submit the proposed contract to the member boards for a non-binding vote before it can take a final and binding vote on the contract; and (3) the allocation of the cost of the superintendent's contract and benefits among the boards. [Complaint, pp. 5-6]
23. With respect to the allocation of the cost of the superintendent's contract, the Complaint alleges that the requirement for equal funding by each Region One Town and the Region One Board proposed in the JEA violates Special Act 405 (1959) and the 7000 Series

Policies, both of which provide for proportional funding based on enrollment.
[Complaint, p. 7]

24. The Complaint alleges that Superintendent Chamberlain “indicated to staff members of the Canaan Board that if the Canaan Board did not sign on to the [JEA] the Canaan teaching staff would no longer be able to participate in shared activities of Region One such as curriculum development, a service guaranteed by Section 7321 of the 7000 Series” and that “services such as curriculum development and legal representation . . . have been withheld or threatened to be withheld” [Complaint, pp. 4, 8]
25. The Complaint attached a letter to Superintendent Chamberlain in which Attorney Frederick Dorsey wrote that: he had “been asked by residents of Regional School District No. 1” to communicate with her regarding Region One’s apparent decision to change the previously agreed method for member boards of education to receive among other things Superintendent of School services from Region One; and the “key to this inquiry is the reported position of Region One that, if the Canaan Board of Education . . . does not . . . sign the newly proposed [JEA],” Region One will, effective July 1, 2015, stop providing Superintendent of Schools services to Canaan and stop allowing Canaan personnel to participate in other regional services, notwithstanding her contract that requires her to serve as Canaan’s Superintendent, and Region One Board policies requiring that services be provided to Canaan. [Complaint, Attachment 1, page 10]
26. This letter, dated May 25, 2015, requested a written response by June 1, 2015 as to whether Region One intended to remove services provided by the RSSC if Canaan did not participate in the JEA. [Complaint, Attachment 1, p.11]
27. The Complainants request that “the State Board order the [Region One] Board to comply with its statutory and contractual obligations to the member boards and the students of Region One and its member school districts.” [Complaint, p.2]
28. The Canaan Board of Education had not signed the JEA when the Complaint was filed on July 14, 2015, but did sign the JEA eight days later on July 22, 2015. [Response, Ex. E; Rebuttal, page 10 of 23, Attachment 1 (Minutes, Region One Board of Education, All Boards Chairs Committee, Combined Meeting, July 22, 2015)]

The Region One Responses and Complainant’s Rebuttal.

29. Superintendent Chamberlain did not submit a written response to the May 25, 2015 letter prior to the filing of the Complaint on July 14, 2015.
30. In response to the May 25, 2015 letter, Gary Brochu, the attorney for Region One, met with Mr. Dorsey on May 29, 2015. Mr. Dorsey and Mr. Brochu discussed the proposed joint employment agreement, resolved certain outstanding issues, and identified three issues which they could not resolve (see paragraph 22 above). [Response, pp. 5-6, 21 and Ex. C, email messages dated June 3, 2015 and June 17, 2015 from Mr. Brochu to Mr. Dorsey and from Mr. Dorsey to Mr. Brochu]

31. In Response to the allegation that services to Canaan would be withheld if Canaan did not sign the JEA, the Region One Board submitted an affidavit from Ms. Chamberlain in which she avers that: at no time did she “refuse to provide Superintendent services to any of [the] Boards of Education;” Region One has at all times continued to provide shared educational services to all Region One school districts; and at no time did she “threaten to withhold services from any of the schools [sic] districts of Region One” nor did she instruct any one to do so. [Response, Ex. G, Affidavit, Pars. 6, 7, 8]
32. Ms. Chamberlain also avers that when questioned about withholding services if a member school district did not become a party to the JEA, she “assured them that these shared services would continue, whether or not the school district was a party to the Joint Employment Agreement,” and that “[w]hen questioned about the transition from me to another Superintendent of Schools for a school district, I did explain that some services that had previously been provided by me, such as the employment and evaluation of district personnel, would be provided by the district’s new Superintendent of Schools.” [Id. Par.9, 10]
33. With respect to the provision of services, Region One states: “The services provided to the Canaan Public Schools, including the services of the Superintendent of Schools, have been, and will continue to be, provided without interruption.” [Response, p. 19]
34. Complainants provided the affidavit of a teacher at Canaan’s Lee H. Kellog School, Robin Faust, in which Ms. Faust describes, as follows, a May 5, 2015 telephone call from Ms. Chamberlain regarding a meeting at which a vote was to be taken on the JEA:

During our conversation she [Ms. Chamberlain] suggested that the staff might want to have a representative at the meeting that night. I expressed concern to her that if the Board did not sign the agreement that Kellog would no longer be a part of regional planning, grade level meetings and curriculum. The Superintendent did not respond to my concerns, nor did she assure me that these shared services would continue, whether or not the Board was a party to the Joint Employment Agreement.

Rebuttal, Attachment 3, par. 4.

35. The Complainants cite a portion of the Canaan Board of Education meeting on May 5, 2015 (the “Canaan May 2015 Meeting”) attended by Superintendent Chamberlain and state that at this meeting Superintendent Chamberlain did not provide assurances to the Canaan Board that if the Canaan Board did not sign the JEA that shared services would be continued. [Rebuttal, p. 7; <https://www.youtube.com/watch?v=pP75553pYY>]
36. Review of the portion of the Canaan May 2015 Meeting cited by Complainants reveals that Ms. Chamberlain appears to say twice that services such as curriculum and professional development would not be lost. In addition, Ms. Chamberlain said that there

may be a transition period, and that the Board would have access to an attorney to ask questions. [YouTube video of the Canaan Board of Education Meeting, May 2015]

37. There was discussion at the Canaan May 2015 Meeting of changes that would occur if Canaan had its own superintendent, what a new superintendent would do, the possible effective date of the JEA, and whether it would negate the contract with Ms. Chamberlain. It was stated that the July date was coming soon. Ms. Chamberlain noted the possibility of a transition plan. [YouTube video of the Canaan Board of Education Meeting, May 2015]
38. Region One states that it has been advised by two attorneys that the existing arrangement where the Region One Superintendent serves as the Superintendent of Schools for Region One and the Region One Towns does not comply with the requirements of C.G.S. Section 10-157a concerning the joint employment of a superintendent. [See Response, p. 3-4]
39. The Region One Board argues that the equal funding provision in the JEA does not violate Special Act 405 (1959) because the Special Act applies to allocating the cost of services provided by the Superintendent to Region One, and, with respect to Region One, these costs are proportionally assessed pursuant to the Special Act. By contrast, the Region One Board asserts, the costs of the Superintendent's services provided directly to a town board are unique to that town board and are not a part of the cost of operating Region One and thus need not be proportionally assessed. [Response, pp. 15-16]

The Execution of the Joint Employment Agreement

40. The Canaan Board of Education signed the JEA on July 22, 2015, at a combined meeting of the Region One Board and the Region One Board's All Boards Chairs Committee (ABC Committee). [Response, Ex. E; Rebuttal, page 10 of 23, Attachment 1 (Minutes, Region One Board of Education, All Boards Chairs Committee, Combined Meeting, July 22, 2015)]
41. The Canaan Board of Education offered a proviso (addendum) to the JEA which had been included with the motion authorizing the signing of the JEA. [Meeting Minutes, Canaan Board of Education, July 21, 2015; Rebuttal, page 10, Attachment 1 (Minutes, Region One Board of Education, All Boards Chairs Committee, Combined Meeting, July 22, 2015)]
42. The addendum offered by the Canaan Board of Education stated:

The signature of the Canaan Board of Education hereto is with the understanding that nothing in the Joint Employment Agreement ("Agreement") impacts on the independent authority of the Canaan Board of Education ("Canaan Board") to govern the operations of the Canaan Public Schools and, in particular, the operation of the Lee H. Kellogg School. While the Canaan Board believes it is in the best interest of the towns comprising the

Region One School District to jointly employ a single Superintendent of Schools (“Superintendent”), it also believes that certain provisions in this Agreement go beyond the scope of, or are in conflict with, the statutorily designated options provided by C.G.S. Section 10-157a to jointly employ a Superintendent and/or are in violation of the Special Acts establishing the Region 1 School District and other prior agreements between the signatory Boards, including, but not limited to, the funding mechanism of the Superintendent’s salary and benefits, the interviewing and selection of finalists for filling the position of Superintendent, the evaluation of the Superintendent, the modification and/or extension of the Superintendent’s contract and the superseding of portions of the 7000 Policy Series in violation of the policy’s terms. To that end, the Canaan Board reserves its right to challenge in the appropriate legal forums the legality of certain individual provisions within the Agreement.

[Rebuttal, pp. 4 -5]

43. The addendum was not included with the JEA. [Rebuttal , page 10 of 23, Attachment 1 (Minutes, Region One Board of Education, All Boards Chairs Committee, Combined Meeting, July 22, 2015)]
44. The JEA was signed by the boards of education of the Region One Towns and the Region One Board on July 22, 2015 or August 5, 2015. [Response, Ex. E; Rebuttal, page 10 of 23, Attachment 1 (Minutes, Region One Board of Education, All Boards Chairs Committee, Combined Meeting, July 22, 2015)]
45. The Minutes of the September 1, 2015 Regular Meeting of the Canaan Board of Education make no reference to the execution of the JEA by the Canaan representative without the inclusion of the addendum, but the minutes note that the ABC Committee “is working on the 7000 series” [Rebuttal Response. p. 11 and Ex. I]
46. The JEA provides that it “shall supersede all prior contracts, compacts or agreements entered into by and between the Boards, or policies enacted by any or all of the Boards, regarding the supervision and employment of the Superintendent.” [Response, Ex. E., JEA, Sec. 7]

Applicable Law.

47. C.G.S. Section 10-4b requires the State Board of Education to conduct an inquiry if the Board determines, after investigation by its agent (here, the State Department of Education), that the findings of the investigation indicate that there is “reasonable cause to believe that a local or regional board of education has failed or is unable to make reasonable provision to implement the educational interests of the state as defined in section 10-4a” [C.G.S. 10-4b (a)]

48. The educational interests of the state are set forth in C.G.S. Section 10-4a as follows:

For purposes of sections 10-4, 10-4b and 10-220, the educational interests of the state shall include, but not be limited to, the concern of the state that (1) each child shall have for the period prescribed in the general statutes equal opportunity to receive a suitable program of educational experiences; (2) each school district shall finance at a reasonable level at least equal to the minimum budget requirement pursuant to the provisions of section 10-262i an educational program designed to achieve this end; (3) in order to reduce racial, ethnic and economic isolation, each school district shall provide educational opportunities for its students to interact with students and teachers from other racial, ethnic, and economic backgrounds and may provide such opportunities with students from other communities; and (4) the mandates in the general statutes pertaining to education within the jurisdiction of the State Board of Education be implemented.

49. The Complainants have alleged the actions of Region One are in violation of Sections 10-4a(1) (each child shall have for the period prescribed in the general statutes equal opportunity to receive a suitable program of educational experiences) and/or (4) (the mandates in the general statutes pertaining to education within the jurisdiction of the State Board of Education be implemented). [Complaint, p.2 (Complainants cite (a)(3), but intended (a)(4)]

Evaluation of the Complaint

50. The Complainants have not identified a specific instance of the withholding of any shared service from Canaan or a specific threat to withhold services. [See Complaint; Rebuttal; YouTube video of the Canaan May 2015 Meeting] The affidavit of Robin Faust does not allege any actual withholding of services or a specific threat to do so. [Rebuttal, Attachment 3, par. 4] There was no statement that services had been withheld, or threat to withhold services, at the Canaan Board of Education meeting cited by Complainants. [YouTube video of the Canaan Board of Education Meeting, May 2015]

51. Region One has specifically denied – including in a sworn Affidavit from the Superintendent – any withholding of services or any threat to withhold services. [Response, p. 19; Ex. G, Affidavit, Pars. 6, 7, 8, 9, 10]

52. The record suggests that Superintendent Chamberlain did not respond in writing to the allegation in the May 25, 2015 letter of reports that she had indicated that Canaan staff would be banned from certain activities if Canaan did not approve the JEA. However, the record indicates that Region One’s counsel met with Complainants’ counsel on May 29, 2015 in response to the May 25, 2015 letter. Moreover, the absence of a specific

response at the time does not constitute substantial evidence that the Superintendent in fact made the statements she is alleged to have made. [Response, p. 19; Ex. G, Affidavit, Pars. 6, 7, 8, 9, 10]

53. There is no substantial factual basis on which to make a finding that: (a) there was any actual withholding of services, (b) a threat to do so, or (c) Region One has not afforded children in Canaan an “equal opportunity to receive a suitable program of educational experiences” C.G.S. Sec. 10-4a(1).
54. Reasonable cause does not exist to believe that the Region One Board has failed, or is unable, to implement the educational interest of the state that each child shall have for the period prescribed in the general statutes equal opportunity to receive a suitable program of educational experiences. [See C.G.S. Section 10-4a(1)]
55. Complainants have articulated differences between the positions of Complainants and Region One as to whether member towns should be offered one finalist or more than one finalist when a new superintendent is being selected for joint employment and whether member towns should have a nonbinding vote on a jointly employed superintendent’s contract before a final vote is taken. [Complaint, pp. 5-6]
56. The requirement that a board of education provide for the supervision of schools under its control by a superintendent and other requirements relating to the employment of a superintendent are set forth in C.G.S. Section 10-157 which is appended to this report. [See Appendix A]
57. The authorization for boards of education to jointly employ a superintendent of schools, and the requirements for agreements to jointly employ a superintendent of schools, are set forth in C.G.S. Section 10-157a which is appended to this report. [See Appendix B]
58. Neither C.G.S. Section 10-157 nor 10-157a require boards of education which jointly employ a superintendent to consider any particular number of finalists for the position when selecting a superintendent or any requirements for voting on a superintendent’s contract. [See C.G.S. Sections 10-157, 10-157a]
59. Neither the number of finalists offered to school boards when jointly hiring a superintendent nor whether member boards take nonbinding votes before a final vote is taken on a superintendent’s proposed contract affects the implementation of a mandate in the general statutes pertaining to education within the jurisdiction of the State Board of Education. [See C.G.S. Sections 10-157 and 10-157a]
60. Whether the ABC Committee of the Region One Board should offer one finalist, or more than one finalist, to the member towns for consideration as superintendent does not affect the implementation of a mandate in the general statutes pertaining to education within the jurisdiction of the State Board of Education. [See, e.g., C.G.S. Sections 10-157, 10-157a]

61. Whether a proposed contract for superintendent services should be submitted to constituent towns for a nonbinding vote prior to a final vote does not affect the implementation of a mandate in the general statutes pertaining to education within the jurisdiction of the State Board of Education. [See, e.g., C.G.S. Sections 10-157, 10-157a]
62. The Complainants and the Region One Board have a disagreement over whether the cost of the Superintendent's salary and benefits should be allocated equally among the boards of education or allocated based on proportional enrollment. [Complaint, p. 7]
63. The Complainant's position that the cost should be allocated based on proportional enrollment among the boards of education is based on Special Act 405 (1959). [Complaint, p. 7]
64. The manner in which the cost of the superintendent's contract is allocated between the boards of education which jointly employ the superintendent does not affect the implementation of a mandate in the general statutes pertaining to education within the jurisdiction of the State Board of Education. [See C.G.S. Section 10-157a(a) (requiring that a joint employment agreement specify the "proportionate share and limits of the authorized expenditures for the salary of the superintendent and other necessary expenses," but does not require any particular method of allocation)]
65. The Complainants have not clearly articulated how, if at all, the Region One Board has provided for changes in the governance structure of schools of the member boards in the guise of provisions in the joint employment agreement.
66. The 7000 Series Policies in effect prior the execution of the JEA delegate to the Region One Board's ABC Committee responsibilities with respect to the hiring of a superintendent, evaluation of the superintendent's performance, and recommending the superintendent's salary and other contractual terms and conditions. [See Paragraph 17, above]
67. The JEA also delegates to the Region One Board's ABC Committee responsibilities with respect to a superintendent's hiring, contract, and evaluation. [See Response Ex. E, Sections 1.1, 1.3, 1.4]
68. The Complainants have not provided any substantial evidence that the Region One Board is unable or unwilling to implement the educational interest of the state that the mandates in the general statutes pertaining to education within the jurisdiction of the State Board of Education be implemented [See C.G.S. Sections 10-157 and 10-157a]
69. The Canaan Board of Education has agreed to the terms of the Joint Employment Agreement, as have the other towns in Region One and the Region One Board. [See Paragraph 44 above.]

70. To the extent that the execution of the Joint Employment Agreement brings Region One and its constituent towns into compliance with CGS Section 10-157a, the Joint Employment Agreement serves to implement the educational interests of the state in accordance with C.G.S. Section 10-4a(4).
71. Reasonable cause does not exist to believe that the Region One Board has failed, or is unable, to implement the educational interest of the state that the mandates in the general statutes pertaining to education within the jurisdiction of the State Board of Education be implemented. [See C.G.S. Section 10-4a(4)]

Recommendation

On the basis of the foregoing findings of fact and conclusions, it is recommended that the State Board of Education:

(a) find that there is no reasonable cause to believe that the Board of Education of Regional School District Number One of Litchfield County has failed, or is unable, to implement the educational interests of the State of Connecticut as defined in Section 10-4a of the Connecticut General Statutes, and, accordingly,

(b) dismiss the Complaint.

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APPENDIX A

§ 10-157. Superintendents: Relationship to local or regional board of education; verification of certification status; waiver of certification; written contract of employment; evaluation of superintendent by board of education

Currentness

(a) Any local or regional board of education shall provide for the supervision of the schools under its control by a superintendent who shall serve as the chief executive officer of the board. The superintendent shall have executive authority over the school system and the responsibility for its supervision. Employment of a superintendent shall be by election of the board of education. Except as provided in subsection (b) of this section, no person shall assume the duties and responsibilities of the superintendent until the board receives written confirmation from the Commissioner of Education that the person to be employed is properly certified or has had such certification waived by the commissioner pursuant to subsection (c) of this section. The commissioner shall inform any such board, in writing, of the proper certification, waiver of certification or lack of certification or waiver of any such person not later than fourteen days after the name of such person is submitted to the commissioner pursuant to section 10-226. A majority vote of all members of the board shall be necessary to an election, and the board shall fix the salary of the superintendent and the term of office, which shall not exceed three years. Upon election and notification of employment or reemployment, the superintendent may request and the board shall provide a written contract of employment which includes, but is not limited to, the salary, employment benefits and term of office of such superintendent. Such superintendent shall, at least three weeks before the annual town or regional school district meeting, submit to the board a full written report of the proceedings of such board and of the condition of the several schools during the school year preceding, with plans and suggestions for their improvement. The board of education shall evaluate the performance of the superintendent annually in accordance with guidelines and criteria mutually determined and agreed to by such board and such superintendent.

(b) A local or regional board of education may appoint as acting superintendent a person who is or is not properly certified for a probationary period, not to exceed one school year, with the approval of the Commissioner of Education. During such probationary period such acting superintendent shall assume all duties of the superintendent for the time specified and shall successfully complete a school leadership program, approved by the State Board of Education, offered at a public or private institution of higher education in the state. At the conclusion of such probationary period, such appointing local or regional board of education may request the commissioner to grant a waiver of certification for such acting superintendent pursuant to subsection (c) of this section.

(c) The commissioner may, upon request of an employing local or regional board of education, grant a waiver of certification to a person (1) who has successfully completed at least three years of experience as a certified administrator with a superintendent certificate issued by another state in a public school in another state during the ten-year period prior to the date of application, or (2) who has successfully completed a probationary period as an acting superintendent pursuant to subsection (b) of this section, and who the commissioner deems to be exceptionally qualified for the position of superintendent.

Appendix B

§ 10-157a. Superintendent for more than one town

Currentness

(a) Notwithstanding any provisions of the general statutes to the contrary, the boards of education of any two or more towns, or the board of education of any regional school district and the board of education of one or more of the towns comprising the district, or a committee formed and authorized by agreement of such boards on behalf of such boards may jointly employ a superintendent of schools, and said superintendent of schools shall have the powers and duties for each of said boards as provided in section 10-157. Such boards of education or such committee shall specify in a written agreement the term of office of such superintendent, which shall not exceed three years, and the proportionate share and limits of authorized expenditures for the salary of such superintendent and other necessary expenses, and any other pertinent matters, and shall provide for the evaluation of the superintendent pursuant to section 10-157. Any agreement authorizing the employment of a superintendent pursuant to this section shall include, but not be limited to, the duties of the committee, the membership of the committee, the voting requirements for action, and provision for termination of the agreement.

(b) Any board of education may withdraw from any agreement entered into under subsection (a) of this section if, at least one year prior to the date of proposed withdrawal, it gives written notice of its intent to do so to each of the other boards.