

V.A.

**CONNECTICUT STATE BOARD OF EDUCATION
Hartford**

TO BE PROPOSED:

March 6, 2019

RESOLVED, That the State Board of Education having carefully reviewed the settlement agreement of the parties, it is hereby resolved, that the Connecticut State Board of Education dismisses without prejudice the Conn. Gen. Stat. Sec. 10-4b Inquiry ordered by the Board on December 5, 2018, and directs the Commissioner to take the necessary action.

Approved by a vote of _____ this sixth day of March, Two Thousand Nineteen.

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

CONNECTICUT STATE BOARD OF EDUCATION
Hartford

TO: State Board of Education

FROM: Dr. Dianna R. Wentzell, Interim Commissioner of Education

DATE: March 6, 2019

SUBJECT: Ansonia 10-4b Inquiry

Executive Summary

Introduction

The Connecticut State Board of Education (CSBE) has the authority to initiate its own complaint pursuant to Section 10-4b of the Connecticut General Statutes (CGS) when the CSBE determines that a board of education may be failing or unable to implement the educational interests of the State as set forth in Section 10-4a of the CGS. CGS § 10-4b(a). One of the critical educational interests of the State is ensuring that each board of education annually receives an appropriation at least equal to the minimum budget requirement (MBR) pursuant to the provisions of Section 10-262j. Unless certain statutory exceptions apply, the MBR requires that a municipality's appropriation for education be at least equal to the appropriation made in the prior fiscal year.

The Connecticut State Department of Education (CSDE) received information indicating that the City of Ansonia failed to meet its MBR obligation for fiscal year (FY) 2017-18 and will fail to meet its MBR obligation in the current fiscal year unless it makes an additional appropriation to the Ansonia Board of Education in the amount of \$600,000.

The CSDE recommended that the CSBE initiate a complaint pursuant to Section 10-4b of the Connecticut General Statutes regarding the alleged inability of the Ansonia Board of Education (BOE) to implement the educational interests of the State, specifically the Minimum Budget Requirement of Connecticut General Statutes Section 10-262j, as a result of the City of Ansonia's failure to appropriate sufficient funds to the BOE to meet its MBR obligations in fiscal years 2017-18 and 2018-19; and, further that, the City of Ansonia be included as a Respondent in this matter. The State Board of Education hereby having found that the City of Ansonia may be responsible for the failure or inability of the Ansonia Board of Education to implement the educational interests of the state, and directed the Commissioner to provide notice of the complaint to the City and BOE by providing them a copy of the Section 10-4b Complaint attached to the Commissioner's September 5, 2018 report to the State Board of Education.

History/Background

On September 5, 2018, the CSBE voted unanimously that the CSDE initiate a Section 10-4b complaint to authorize the CSDE to conduct an investigation of this matter in accordance with the Section 10-4b regulations.

On December 5, 2018, CSDE attorneys presented the CSBE with an “Ansonia 10-4b Timeline Options if Inquiry is Ordered by the State Board of Education.”

- (i) The CSBE voted in opposition of the resolution for the Chair to appoint a subcommittee of three members of the State Board of Education to conduct an inquiry;
- (ii) The CSBE voted that pursuant to Section 10-4b of the Connecticut General Statutes, that the full State Board of Education conduct an inquiry as set forth in C.G.S. Section 10-4b and Section 10-4b-9 of the Regulations of Connecticut State Agencies; and
- (iii) The CSBE voted that the Ansonia 10-4b Inquiry be held on Thursday, January 3, 2019, in lieu of the regularly scheduled State Board of Education meeting.

On December 6, 2018, the City of Ansonia, the Ansonia Board of Education, and the CSDE (the “Parties”) were noticed via certified mail of the CSBE’s vote to proceed with the Ansonia 10-4b Inquiry.

On December 28 and 31, 2018, the parties executed a Memorandum of Agreement and Waiver of 10-4b timelines:

- (i) Pending the mediation date of January 11, 2019, the Ansonia 10-4b Inquiry scheduled for January 3, 2019, was postponed to the February 6, 2019, State Board of Education meeting. The parties agreed that the CSBE must approve the terms of any settlement reached by the parties to the extent such settlement relates to the subject of the 10-4b proceeding currently pending before the CSBE; and
- (ii) The parties acknowledged that they knowingly and voluntarily waived the timelines set forth in the Regulations of Connecticut State Agencies Section 10-4b-9 for completion of the SBE's inquiry.

On January 11, 2019, Judge Robert Holzberg presided over a mediation of the parties. The objective of said mediation was to fully and finally resolve all matters in dispute between the parties, including without limitation, the funding of the Ansonia school district for the 2018-19 school year.

On February 4, 2019, Judge Robert Holzberg presided over an all-day mediation of the parties. The parties reached a settlement in principle, which would dispose of this matter along with the matter currently pending in the Connecticut Superior Court. The settlement in principle involves,

among other things, the Ansonia Board of Education receiving an amount in excess of \$600,000 for 2018-2019.

On February 5, 2019, based on the foregoing, all parties in this matter collectively requested that February 6th hearing be continued pending the final execution of the settlement agreement and the parties' performance of their corresponding obligations pursuant to that settlement agreement.

On February 5, 2019, the parties, the Connecticut State Board of Education, the Ansonia Board of Education, and the City of Ansonia, through their attorneys, executed a Waiver of Statutory and Regulatory Time Limits, which waived any applicable statutory and/or regulatory time requirements for rendering a decision or otherwise, which were applicable to this proceeding.

At the February 6, 2019 State Board of Education meeting, Attorney Louis Todisco updated the CSBE on the pending final agreement and indicated that the parties were expected to appear at the March 6, 2019, SBE meeting to state that the matter has been resolved. Assistant Attorney General Ralph Urban indicated that it would be the CSBE's decision at the March meeting, to appropriately dismiss the Ansonia 10-4b Inquiry.

After the February 6, 2019 meeting, the Ansonia Board of Education and the City of Ansonia prepared a written Settlement Agreement memorializing the terms of their settlement of Superior Court litigation and the Ansonia 10-4b Inquiry. Upon review, it was determined that one provision of the Settlement Agreement was inconsistent with Connecticut law. On March 4, the Ansonia Board of Aldermen approved a revised provision that is consistent with Connecticut law. This revised provision includes an appropriation to the Ansonia Board of Education for the 2018/2019 fiscal year that exceeds the minimum budget requirement for that year. The Ansonia Board of Education is holding an emergency meeting at 3:00 p.m. on March 5, 2019 to consider the revised provision. As of this writing, we have not been informed of the action taken by the Ansonia Board of Education. We expect that further information will be available by the time of the State Board meeting on Wednesday.

Before the revised provision was discussed and agreed to by the Board of Aldermen, the City of Ansonia had, on March 1, 2019, requested a continuance of this matter. Also, before the revised provision was agreed to by the Board of Aldermen, the Board of Education had objected to the continuance. Neither party has commented on the request for a continuance since then.

Next Steps and Recommendation

It will be necessary for the State Board of Education to wait until the meeting to determine the action to be taken. If it is reported that both the City of Ansonia and the Ansonia Board of Education have agreed to the revised provision, the State Board can either continue the matter, or dismiss without prejudice, pending the payment of the appropriation.

Approved by:
Assistant Attorney General Ralph Urban