

**Connecticut State Board of Education
Hartford**

**To Be Proposed:
November 6, 2024**

Resolved: That in accordance with Section 10-4b of the Connecticut General Statutes, as well as Section 10-4b-3(a)(2) of the Regulations of Connecticut State Agencies, the State Board of Education [“SBE”] hereby finds that there is reasonable cause to initiate a complaint against the Connecticut Technical Education and Career System [“CTECS”], and in accordance with such finding, and pursuant to Section 10-4b-6(b) of the Regulations of Connecticut State Agencies, the SBE directs that the Connecticut State Department of Education conduct an investigation into whether CTECS has failed or is unable to make reasonable provisions to implement the educational interests of the State of Connecticut, and following the conclusion of such investigation submit to the SBE a report setting forth the results of that investigation in accordance with Section 10-4b-7 of the Regulations of Connecticut State Agencies.

Approved by a vote of _____ this sixth day of November, Two Thousand Twenty-Four.

Signed: _____

Charlene M. Russell-Tucker, Secretary
State Board of Education

Connecticut State Board of Education
Hartford

TO: State Board of Education
FROM: Charlene M. Russell-Tucker, Commissioner of Education
DATE: November 6, 2024
SUBJECT: Connecticut Technical Education and Career System Section 10-4b Complaint

Introduction

Section 10-4b(a) of the Connecticut General Statutes [“C.G.S.”] provides in relevant part that “the State Board of Education . . . may initiate a complaint, alleging the failure or inability of the board of education of such local or regional school district to implement the educational interests of the state in accordance with section 10-4a.” See also Regulations of Connecticut State Agencies [“R.C.S.A.”] §10-4b-3(a)(2). Section 10-4b is typically not implicated by individual or isolated occurrences; rather, it is a vehicle for investigating allegedly systemic failures to implement the educational interests of the State. These educational interests are set forth in Section 10-4a, which includes the following relevant language:

For purposes of sections . . . 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 . . . and (4) the mandates in the general statutes pertaining to education within the jurisdiction of the State Board of Education be implemented.

Id. (emphasis added). Sections 10-4a and 10-4b are applicable to the Connecticut Technical Education and Career System [“CTECS”] pursuant to C.G.S. §10-15d, which provides in relevant part: “All provisions of the general statutes concerning education . . . shall apply to the operation of the Technical Education and Career System, established pursuant to the provisions of section 10-95.”¹

¹C.G.S. §10-4b references “board of education of such local or regional school district” as a board of education is the legislative body for local and regional school districts. C.G.S. §10-240. CTECS’ equivalent decision maker is its Executive Director, whom by statute is deemed the “department head.” C.G.S. §4-5. See also C.G.S. §4-8. Despite this distinction, under the plain and unambiguous language set forth in C.G.S. §10-15d, a local board of education and CTECS’ Executive Director are essentially interchangeable within the context of Section 10-4b.

The relevant “mandates in the general statutes pertaining to education” referenced in C.G.S. §10-4a include C.G.S. §10-95, which states that CTECS “shall offer full-time comprehensive secondary education,” and C.G.S. §10-15c(a), which provides:

The public schools shall be open to all children five years of age and over . . . and each such child shall have, and shall be so advised by the appropriate school authorities, an equal opportunity to participate in the activities, programs and courses of study offered in such public schools, at such time as the child becomes eligible to participate in such activities, programs and courses of study, without discrimination on account of . . . disability.

There are, in addition, those Connecticut statutes that mirror the federal Individuals with Disabilities Education Improvement Act of 2004 [“IDEA”] and are set forth at C.G.S. §§10-76a, *et seq.*

Should the State Board of Education [“SBE”] find cause to initiate a complaint, the Commissioner of Education shall then order an investigation of the relevant district – which, again, in this case is CTECS – pursuant to R.C.S.A. §§10-4b-5(c)(2) and 10-4b-6(b), and thereafter shall submit to the SBE a report, including recommendations for action under R.C.S.A. §10-4b-7(b). Based upon that report, the SBE is required to either dismiss the complaint if it determines that there is no reasonable cause to believe the district has failed or is unable to implement the educational interests of the state or, in the alternative, order an inquiry if it deems that such cause exists. R.C.S.A. §10-4b-7(8). Within the context of Section 10-4b, an “inquiry” is an administrative proceeding conducted pursuant to the Connecticut Administrative Procedures Act, C.G.S. §§4-177 through 4-194, inclusive.

Background

The Connecticut State Department of Education [“CSDE”] learned that CTECS was engaging in a practice of using each student’s past disciplinary record as one factor in determining whether the student may enroll at a CTECS school. In this so-called “safety review” process, a CTECS panel reviewed individual student disciplinary histories and denied admission to those students determined to be a potential “safety risk” for future enrollment. Having become aware of this, the CSDE initiated a number of conversations with CTECS regarding these “safety exclusions,” particularly with respect to the three CTECS schools within the Sheff v. O’Neill school-choice portfolio – A.I. Prince in Hartford, E.C. Goodwin in New Britain, and Howell Cheney in Manchester. As a result of these conversations, the approximately twenty students whom CTECS originally sought to exclude for the 2023-2024 school year were reduced to three.

Despite the CSDE’s ongoing concerns, which it repeatedly raised with CTECS, the CSDE learned that prior to the 2024-2025 school year, CTECS once again implemented the review panels. In response, on July 3, 2024, the CSDE’s Director of Legal and Governmental Affairs, sent an e-mail to CTEC’s Executive Director and Interim Superintendent, advising them that in the opinion of the CSDE’s Office of Legal and Governmental Affairs, the practice of barring students from enrolling in CTECS based on a student’s prior disciplinary history in the student’s home school district violated Connecticut, and possibly federal, law. The CSDE further set forth in that July 3 e-mail its concern that CTECS’ safety review process risked adversely and disproportionately affecting certain demographic groups – potentially in violation of various

federal and state anti-discrimination laws, including but not limited to C.G.S. §10-15c. Nonetheless, CTECS moved forward with its exclusions of approximately 46 students from, collectively, Prince, Goodwin, and Cheney. Furthermore, despite repeated requests from the CSDE that CTECS provide the numbers of excluded students systemwide, CTECS has failed and effectively refused to provide them.

At the outset of, and early in, the 2024-2025 school year, CSDE leadership held meetings with CTECS leadership concerning the safety-exclusions process. As a result of these meetings, CTECS advised that it would no longer be implementing the safety-review panels for the 2025-2026 school year and would instead implement an admissions lottery process. The CSDE was in agreement that a lottery process would be inherently fairer. Unfortunately, on or soon before October 10, 2024, CTECS' Interim Superintendent disseminated an e-mail to the Department Heads of each CTECS schools' Counseling Departments which confirmed the CSDE's concerns about the safety-review process disproportionately affecting certain student demographics, and strongly suggested that the goal of both the safety-review process and the proposed lottery was, in fact, to exclude students with disabilities from admission to CTECS or, at the very least, reduce their number.²

In his e-mail, CTECS' Interim Superintendent wrote:

[L]et's go with the facts. In 2019 our district had 1235 special education students. Today we have 1950. This past year I reinstated the safety review board, which by our current numbers, right or wrong has disenrolled a large number of students from our buildings, **73% of which are special education.**

Id. (emphasis added).³ On its face, this language strongly suggests that the purpose of “restitut[ing] the safety review board,” was not borne solely out of *safety* concerns, but rather for the larger purpose of excluding or reducing the number of special education students. In fact, the Interim Superintendent also wrote:

We are in a tricky spot with our admissions and how we meet the vision of district, navigate the tremendous costs that come with our ballooning special education population, and most notably, make the necessary changes to our admissions that will help stop the unsustainable level of admitting students that have significant disciplinary histories, ***require nurses/paras/behavioral therapists, and so on.***

Id. (emphasis added).⁴ Similarly, he advised the systems' Counseling Department Heads:

I have had numerous meetings with Commissioner Russell-Tucker, her team of advisors, and special education lawyers. The state believes we are in violation of federal laws by

²CTECS never shared a copy of this e-mail with the CSDE; rather, the e-mail otherwise came to the CSDE's attention on October 10, 2024.

³A copy of that October 2024 e-mail is submitted with this memorandum.

⁴The Interim Superintendent's reference to “stop[ping] the unsustainable level of admitting students that . . . require nurses/paras/behavioral therapists” raises additional concerns as to whether those students with disabilities who ***were*** admitted to CTECS are receiving the supports they require to succeed both academically and in the trade they have chosen to pursue.

continuing on with the safety review board. *I was able to buy us a year, but if I didn't we would have over 2100 special education students in our schools*, with no increases in funding to support our teachers, and especially you, the counselors, who often are on the front lines with families and these high need students.

....

We will no longer, after this year, be allowed to use the safety review committee. If we do, the state will sue us. That is a real fact, which led us to believe that the lottery was our best bet. *A lottery with preferences that we could control to help set up our schools with the right[] kids, who are with us for the right reasons.*

Id. (emphasis added).⁵ At the very least, this strongly suggests that CTECS' Interim Superintendent was not being forthright with the CSDE during CTECS' meetings with the CSDE but was instead seeking to delay having to implement an admissions policy that would treat students with disabilities and their non-disabled peers equally. It further suggests that the proposal of the lottery was *not* in order to establish an equitable admissions policy; to the contrary, its purpose was to establish an alternative process by which CTECS could admit only those students it considered "the *right[]* kids," which in the context of the entire e-mail would seem to refer to special education students who do not have high needs.

As noted, 46 students were collectively barred by CTECS' safety-review panels from Prince, Goodwin, and Cheney, 73% of which equals approximately 34 students. As also noted, despite the CSDE's repeated requests, CTECS has failed to provide the systemwide numbers of students whom it barred through the safety-review process prior to the 2024-2025 school year. When one considers, however, that there are in total eighteen technical high schools, as well as the fact that one-sixth of those schools cumulatively excluded from admission 46 students, it is not unreasonable to assume that the students CTECS barred is substantial, and, by extension, that the 73% of these students who are eligible for special education services is similarly high, an obviously alarming prospect.

Recommendation

As previously discussed, Connecticut law expressly provides that "the educational interests of the state shall include . . . 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.* C.G.S. §10-4a (emphasis added). Similarly, Connecticut law unambiguously provides: "The public schools shall be open to all children five years of age and over . . . and each such child shall have, and shall be so advised by the appropriate school authorities, an equal opportunity to participate in the activities, programs and courses of study offered in such public schools . . . *without discrimination on account of . . . disability.*" C.G.S. §10-15c(a)(emphasis added). As such, a foundational principle of both the State Board of Education and the Connecticut

⁵In language that is equally troubling, as well as extraordinarily patronizing, the Interim Superintendent implicitly sought to differentiate among students who require fewer services and those children who "require nurses/paras/behavioral therapists, and so on," writing: "We all have a favorite kid who is special education. Many of them do not need services and do not need significant accommodations." Id.

State Department of Education is to ensure that *all* students be afforded the same opportunities to access, enjoy, and benefit from our state's public education system. That system includes CTECS.

The troubling perspective set forth in the October 2024 e-mail sent by CTECS' Interim Superintendent to the system's constituent schools is directly at odds with that principle. This e-mail was sent by the Interim Superintendent in his role as Interim Superintendent, and that fact, in addition to the plain language of the e-mail, would appear to reflect an institutional as opposed to a personal perspective. At the same time, given the gravity of this matter, the CSDE does not wish to rely upon assumption, however reasonable that assumption might be. Consequently, and for the reasons set forth herein, the CSDE respectfully requests that the SBE exercise its authority under C.G.S. §10-4b and R.C.S.A. §10-4b-3(a)(2) and initiate a complaint alleging the failure or inability of CTECS to implement the educational interests of the state in accordance with C.G.S. §10-4a and thereby authorize the CSDE to promptly commence an investigation into CTECS' policies and practices pertaining to students with disabilities.

Prepared by: Michael P. McKeon
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