

CONNECTICUT STATE BOARD OF EDUCATION**Hartford****Option 1****TO BE PROPOSED:**

November 7, 2018

RESOLVED, That, in the matter of the Petition of the Thomaston Board of Education for a Declaratory Ruling (the “Thomaston Petition”), the State Board of Education (“State Board”) takes the following action pursuant to Connecticut General Statutes (C.G.S.) Section 4-176 and Regulations of Connecticut State Agencies Sections 10-4-20 through 10-4-22:

(1) finds that the legal rights, duties, or privileges of the Thomaston Board of Education and the Regional School District No. 6 Board of Education (which has petitioned for party status), will be specifically affected by this declaratory ruling proceeding, and grants party status in this proceeding to the Thomaston Board of Education and the Regional School District No. 6 Board of Education (*see* C.G.S. Section 4-176 (d));

(2) issues its declaratory ruling on the questions presented in the Thomaston Petition in the form submitted to the State Board for decision today to be effective upon mailing to the Thomaston Board of Education and the Regional School District No. 6 Board of Education (*see* C.G.S. Section 4-176 (h));

(3) authorizes the Chairman to sign the declaratory ruling on behalf of the State Board; and directs the Commissioner to take the necessary action.

Approved by a vote of ____ this seventh day of November, Two Thousand Eighteen.

Signed: _____

Dr. Dianna R. Wentzell, Secretary
State Board of Education

CONNECTICUT STATE BOARD OF EDUCATION**Hartford****Option 2****TO BE PROPOSED:**

November 7, 2018

RESOLVED, That, in the matter of the Petition of the Thomaston Board of Education for a Declaratory Ruling (the “Thomaston Petition”), the State Board of Education (“State Board”) takes the following action pursuant to Connecticut General Statutes (C.G.S.) Section 4-176 and Regulations of Connecticut State Agencies Sections 10-4-20 through 10-4-22:

(1) finds that the legal rights, duties, or privileges of the Thomaston Board of Education and the Regional School District No. 6 Board of Education (which has petitioned for party status), will be specifically affected by this declaratory ruling proceeding and grants party status in this proceeding to the Thomaston Board of Education and the Regional School District No. 6 Board of Education (*see* C.G.S. Section 4-176 (d));

(2) issues its declaratory ruling on the questions presented in the Thomaston Petition in the form submitted to the State Board for decision, as modified by the State Board today, to be effective upon mailing to the Thomaston Board of Education and the Regional School District No. 6 Board of Education (*see* C.G.S. Section 4-176 (h)); and

(3) authorizes the Chairman to sign the declaratory ruling on behalf of the State Board; and directs the Commissioner to take the necessary action.

Approved by a vote of ____ this seventh day of November, Two Thousand Eighteen.

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, Commissioner of Education
DATE: November 7, 2018
SUBJECT: Thomaston Board of Education Petition for a Declaratory Ruling –
Consideration of Proposed Ruling

*Executive Summary***Introduction**

The Thomaston Board of Education (TBOE) has filed a Petition for Declaratory Ruling (“Petition”) seeking rulings as to the application of the Connecticut General Statutes providing for agricultural science and technology education for high school students to the circumstances stated in the Petition. The State Board has the legal authority to issue declaratory rulings. *See* C.G.S. § 4-176; Regs. Conn. State Agencies §§ 10-4-20 through 10-4-22.

Background

The TBOE does not maintain an agricultural science and technology education center (ASTECC), but has designated the ASTECC operated by the Regional School District No. 6 Board of Education (R6BOE) as the ASTECC that TBOE students may attend. The Petition resulted from a dispute between the TBOE and the R6BOE concerning the enrollment of TBOE students in the ASTECC at the R6BOE’s Wamogo Regional High School.

On June 19, 2018, the Board agreed to issue rulings on the questions presented by the TBOE. The Board also directed the Department to provide notice of this action and to determine the procedure by which the TBOE, the R6BOE, and other interested parties may participate in the declaratory ruling proceeding. The TBOE and the R6BOE filed written submissions on the facts, argument on legal issues, and their positions on the various rulings sought in the Petition. The TBOE and R6BOE submissions have been provided to the State Board.

At its October 3, 2018 meeting, the Board directed the Department to prepare a draft declaratory ruling, provide the draft ruling to the TBOE and the R6BOE for their comments, and then submit the draft ruling and any comments to the State Board for action by the State Board at its November 7, 2018 meeting. The State Board also directed the Department to notify counsel for

the TBOE and the R6BOE that each would have 10 minutes, exclusive of questions from State Board members, to provide oral argument.

The TBOE has provided written comments on the draft declaratory ruling. The TBOE comments are included with this report for the Board's consideration. The R6BOE did not provide written comments on the draft declaratory ruling.

Recommendation

This matter is ready for final resolution by the State Board. A final ruling must be issued by November 30, 2018.

The Division of Legal and Governmental Affairs will be present at the meeting to advise the State Board on the TBOE comments and to answer any questions.

Two resolutions have been provided. One resolution addresses action if the State Board does not make any changes to the draft ruling. The second resolution addresses action if the State Board makes changes to the draft ruling at the November 7, 2018 meeting.

Prepared by:

Louis Todisco, Attorney
Division of Legal and Governmental Affairs

Approved by:

Peter Haberlandt, Director
Division of Legal and Governmental Affairs

CONNECTICUT STATE BOARD OF EDUCATION

**PETITION OF THE
THOMASTON BOARD OF EDUCATION :
FOR A DECLARATORY RULING : NOVEMBER ---, 2018**

DECLARATORY RULING

I. Background and Procedural History

On May 3, 2018, the Thomaston Board of Education (“TBOE”) filed with the Connecticut State Board of Education (“CSBE”) a Petition for Declaratory Ruling (“Petition”). *See* Conn. Gen. Stat. § 4-176; Reg. Conn. State Agencies (R.C.S.A.) §§ 10-4-20 through 10-4-22. The Petition concerned the interpretation and application of Connecticut General Statutes (C.G.S.) §§ 10-64, 10-65, and 10-97 relating to the provision of agricultural science and technology education.

In the Petition, the TBOE requested declaratory rulings on seven (7) separate questions. This request arose from a dispute between the TBOE and the Regional School District No. 6 Board of Education (“R6BOE”) concerning the enrollment of Thomaston students for the 2017/2018 school year in the agricultural science and technology education center (ASTEC) operated by the R6BOE at the Wamogo Regional High School (the “Wamogo Center”).¹

On June 19, 2018, the CSBE agreed to issue declaratory rulings on the issues in the Petition, as combined or modified. The CSBE also directed the Department of Education (“Department”) to do the following:

- (1) provide notice to the public and interested parties that the Board would issue a ruling, reserving the Board’s option to combine or modify the issues as it may deem appropriate;
- (2) determine the procedure and schedule by which the R6BOE and the TBOE may provide written submissions as to their position on the issues raised in the Petition;
- (3) determine the procedure and schedule by which other interested persons may provide written submissions as to their position on the issues presented by the Petition; and
- (4) provide the Board with the materials received from interested parties, or a summary thereof, and other material as appropriate to allow the Board to deliberate on a proposed ruling.

¹ This dispute led to a lawsuit brought by the TBOE against the R6BOE, which was dismissed because the TBOE had not exhausted its administrative remedies. *See Thomaston Board of Education v. Regional School District No. 6 Board of Education*, CV176036044S, 2018WL49118 (Conn. Super. Ct. May 21, 2018).

On July 18, 2018, the Department provided to all Superintendents of Schools and Chairpersons of Boards of Education: (1) notice of the declaratory ruling proceeding, and (2) notice that persons may, no later than August 8, 2018, petition for party or intervenor status and submit for the CSBE's consideration, any relevant data, facts, arguments, or opinions. *See* R.C.S.A. § 10-4-22 (a). The Department also notified the Connecticut Association of Boards of Education and the Connecticut Association of Public School Superintendents of the Petition.

On August 8, 2018, the R6BOE submitted a petition for party status and a memorandum, and the TBOE filed a supplemental memorandum. No other persons filed petitions for status or data, facts, arguments, or opinions. The Department then established a schedule for filing additional written materials by the TBOE and the R6BOE.

On October 3, 2018, at its regular meeting, the CSBE directed the Department to prepare a draft decision, provide the draft decision to the TBOE and the R6BOE for comment, and to submit the draft decision together with the comments of the TBOE and the R6BOE to the CSBE for action at its November 7, 2018 meeting. The TBOE has agreed that the CSBE may issue its declaratory ruling by November 30, 2018.

II. Data, Facts, Arguments, and Opinions Submitted by the Parties

The issues presented by the Petition are essentially legal issues. The CSBE did not conduct a hearing. The TBOE and the R6BOE have submitted the factual and legal bases for their positions in writing through the following written submissions:

1. Petition for Declaratory Ruling (TBOE) ("Petition"), dated April 26, 2018;
2. Response of the Region Six Board of Education Re: April 26, 2018 Petition for Declaratory Ruling of the Thomaston Board of Education ("R6 Response"), dated August 8, 2018;
3. Petitioner's Supplementary Argument Regarding Petition for Declaratory Ruling ("TBOE Supp. Arg."), dated August 8, 2018;
4. Petitioner's Reply to the Respondent's Response to the Petition ("TBOE Reply"), dated August 24, 2018;
5. Region 6 Board of Education's Response to the August 24, 2018 Reply of the Thomaston Board of Education, dated August 31, 2018 ("R6 Sur-Reply").

III. Determination of Party Status

An agency may grant a person party status in a declaratory ruling proceeding if the agency finds that the person's "legal rights, duties or privileges shall be specifically affected by the agency proceeding" *See* C.G.S. § 4-176 (d)(1). A declaratory ruling shall contain the names and addresses of all parties to the proceeding. *Id.* § (h).

The TBOE has by the Petition requested a determination of its legal rights, duties, or privileges, and is designated a party to this proceeding. Based on the allegations in the TBOE's

Petition, and the R6BOE's Petition for Party Status, the CSBE finds that the legal rights, duties, or privileges of the R6BOE will be specifically affected by this proceeding, and grants party status to the R6BOE. The names and addresses of the parties are:

Thomaston Board of Education
185 Branch Road
Thomaston, CT 06787

Region 6 Board of Education
35 Wamogo Rd.
Litchfield, CT 06759

IV. Governing Statutes & Relevant History

Before addressing the Petition in detail, it is useful to set forth the portions of the statutes that authorize the establishment of ASTECs and the enrollment of students in an ASTEC by a board of education that does not maintain as ASTEC. Connecticut law authorizes the establishment of an ASTEC by a board of education through C.G.S. § 10-64 (a) as follows:

(a) Any local or regional board of education may enter into agreements with other such boards of education to establish a regional agricultural science and technology education center in conjunction with its regular public school system, provided such center shall have a regional agricultural science and technology education consulting committee which shall advise the operating board of education but shall have no legal authority with respect to such center. Such agreements may include matters pertaining to the admission of students, including the establishment of a reasonable number of available program acceptances and the criteria for program acceptance. . . .

C.G.S. § 10-64 (a) (Supp. 2018). The first sentence of subsection (a) has been a part of Connecticut law, with only technical revisions, since 1967. The second sentence (addressing agreements with respect to the admission of students), was added by Public Act 93-410.

Subsection (d) of C.G.S. § 10-64 requires a board of education that does not maintain an ASTEC to designate a school or schools having an ASTEC for its students to attend as follows:

(d) Any local or regional board of education which does not furnish agricultural science and technology education approved by the State Board of Education shall designate a school or schools having such a course approved by the State Board of Education as the school which any person may attend who has completed an elementary school course through the eighth grade. The board of education shall pay the tuition and reasonable and necessary cost of transportation of any person under twenty-one years

of age who is not a graduate of a high school or technical education and career school or an agricultural science and technology education center and who attends the designated school

C.G.S. § 10-64 (a) (Supp. 2018). The General Assembly added subsection (d) in to C.G.S. § 10-64 in 2004. *See* Public Act 04-197. However, the requirement that a board of education that does not furnish “vocational agricultural training” designate a school having such a course for students to attend, and to pay for tuition and transportation, has been in Connecticut law as a part of C.G.S. § 10-97 since before 1969. *See* Public Act 1969-603. Existing C.G.S. § 10-97(b) is virtually identical to C.G.S. § 10-64(d) and need not be separately included here.

Connecticut General Statutes § 10-65(b) was amended in 2007 and 2008 to prescribe how to determine the number of ASTEC enrollment opportunities that must be provided by a board of education that does not maintain an ASTEC (Sending Board). *See* Public Acts 07-03 (June Special Session) and 08-152. Section 10-65(b) now provides, in pertinent part:

Each local or regional board of education not maintaining an agricultural science and technology and education center shall provide opportunities for its students to enroll in one or more such centers in a number that is at least equal to the number specified in any written agreement with each such center or centers, or in the absence of such an agreement, a number that is at least equal to the average number of its students that the board of education enrolled in each such center or centers during the previous three school years, provided, in addition to such number, each such board of education shall provide opportunities for its students to enroll in the ninth grade in a number that is at least equal to the number specified in any written agreement with each such center or centers, or in the absence of such an agreement, a number that is at least equal to the average number of students that the board of education enrolled in the ninth grade in each such center or centers during the previous three school years. . . . The board of education operating an agricultural science and technology education center may charge . . . tuition for a school year

C.G.S. § 10-65(b) *as amended by* P.A. 07-03 (JSS), *and* P.A. 08-152. Section 10-65(b) had already provided for a board of education operating a vocational agricultural center to charge tuition in accordance with the statutes.

As both the TBOE and the R6BOE have cited portions of C.G.S. § 10-220(a), we include here the portions of this section that the parties have cited:

(a) Each local or regional board of education shall maintain good public elementary and secondary schools, implement the educational interests of the state, as defined in section 10-4a, and provide such other educational activities as in its judgment will best serve the interests of the school district; provided any board of education may secure such opportunities in another school district

in accordance with provisions of the general statutes and shall give all the children of the school district . . . as nearly equal advantages as may be practicable; shall provide an appropriate learning environment for all its students . . . shall determine the number, age and qualifications of the pupils to be admitted into each school; . . . shall designate the schools which shall be attended by the various children within the school district; . . . may arrange with the board of education of an adjacent town for the instruction therein of such children as can attend school in such adjacent town more conveniently. . . . and shall perform all acts required of it by the town or necessary to carry into effect the powers and duties imposed by law.

V. Facts of the Current Dispute

The issues in the Petition on which rulings are requested present questions of law. We summarize here the facts necessary to provide context for the rulings sought in the Petition.

The TBOE does not maintain an ASTEC. At all relevant times, the TBOE has designated the Wamogo Center operated by the R6BOE as the school that Thomaston students may attend for agricultural science and technology education. The TBOE and the R6BOE do not have a written agreement specifying the number of opportunities to attend the Wamogo Center that the TBOE will offer to its students. Instead, the TBOE has met its obligations to provide opportunities to Thomaston students to attend an ASTEC based on the three-year averages of students overall and ninth-grade Thomaston students attending the Wamogo Center. *See* C.G.S. § 10-65(b).

During the 2016-2017 school year, based on the three-year average of admissions of ninth grade students, the TBOE authorized the Wamogo Center to accept up to five (5) eighth grade Thomaston students to attend the Wamogo Center as ninth grade students for the 2017-2018 school year. On January 20, 2017, the Wamogo Center informed the TBOE by email that it had accepted five Thomaston students as ninth grade students for the 2017–2018 school year and had placed four additional Thomaston students on a waiting list. This message also stated the R6BOE’s desire to enroll additional students if the TBOE agreed. (*See* Petition, Exhibit D).²

By letter dated March 21, 2017, the director of the Wamogo Center confirmed to the TBOE the names of the five incoming ninth grade students offered positions at the Wamogo Center for the 2017-2018 school year and the names of the four students on the waiting list. Three of the students on the waiting list were incoming ninth grade students, and one was a tenth grade student. *See* Petition, Exhibit E.

On July 17, 2017, the R6BOE sent to the TBOE a roster of 18 Thomaston residents planning to attend the Wamogo Center. The roster included six ninth grade students, five tenth grade students, four eleventh grade students, and three twelfth grade students. The roster

² Heading into the 2017-2018 school year, the prior three-year average of Thomaston students attending the Wamogo Center was 17.666667, which is rounded up to 18.

included the five ninth grade students identified in March who had been offered positions and one ninth-grade student who had been on the waiting list. (Petition, Exhibit F). The TBOE did not object to this roster.

There does not appear to be any dispute between the TBOE and the R6BOE as to the sequence of events outlined above. Exhibits D, E, and F, included with the Petition, are communications between the TBOE and the R6BOE and were also submitted by the R6BOE with its Response.

On August 3, 2017, the R6BOE accepted the three remaining students on the waiting list. Thus, the RBOE ultimately accepted 21 Thomaston students, including eight ninth grade students. This was three more students than the TBOE total student three-year average of 18 and three more ninth grade students than the TBOE three-year average of ninth grade admissions of five. The TBOE objected to the increase. The R6BOE did not charge Thomaston tuition for the three additional students.³

The R6BOE also makes certain fact-based arguments to justify its acceptance of the additional students. As stated above, however, the issues presented by the Petition are issues of law. The CSBE has accordingly determined that it can rule on the issues presented in the Petition without resolving these factual disputes.⁴

VI. The Parties' General Legal Arguments

Before reviewing the positions of the parties on the requested rulings, it is useful to provide a brief overview of the general position of the parties on the law.

A. The TBOE

The TBOE's overarching legal argument is that local boards of education have broad power and discretion regarding local educational policy and this discretion should extend to the issue of deciding how many students will attend agricultural science and technology education centers in other school districts. The TBOE cites certain passages of C.G.S. § 10-220(a) and case law in support of its position. The language cited by the TBOE in these authorities is consistent with the proposition that school districts have broad discretion in areas where such discretion is not otherwise limited by express statutory commands. Here, C.G.S. §§ 10-64 and

³ The TBOE received a tuition bill for the 2017-2018 school year from the R6BOE. The bill lists 21 students, including eight 9th grade and six 10th grade students, but sought payments for only eighteen (18) .021. (Cite)

⁴ The R6BOE claims that it informed the TBOE about the three additional students in early August 2017, but the TBOE did not object until school was about to start. The R6BOE also claims that it relied on responses to questions it posed to a Department employee concerning the three-year average of Thomaston students attending the Wamogo Center. The TBOE vigorously disputes these contentions and we note that the Department employee, Harold Mackin, accurately reported the three-year average as 18 students in response to the R6BOE's questions, so its claim is perplexing.

10-65 expressly address the obligations of school districts concerning agricultural science and technology education opportunities for students. To the extent §§ 10-64 and 10-65 are ambiguous, the background principle that a local board of education generally has broad discretion over matters in its domain may be relevant.

B. The R6BOE

The R6BOE emphasizes the State's policy in favor of school choice in public education. The R6BOE cites CSBE and Department materials, C.G.S. Section 10-220(a), and the educational interests of the state in its argument. For example, the R6BOE notes that in 2009, the Board issued a "Position Statement on Public School Choice" which states: "The Connecticut State Board of Education is committed to closing the achievement gap and ensuring that **every student** has the opportunity to access high-quality programs **based on his or her educational needs and interests.**" (Emphasis added by R6BOE). The R6BOE also asserts that the wide range of public school choice programs in Connecticut shows the State's commitment to providing choice to students and families.

The R6BOE further asserts that the TBOE disregards certain language in C.G.S. § 10-220 that shows that the statute as a whole tends to favor the R6BOE's position, because it emphasizes the interests of the students and the importance of equal opportunities for students in local board of education decision-making. The TBOE also cites C.G.S. § 10-4a, which sets forth the educational interests of the State, arguing that it can reasonably be understood as emphasizing the interests of students and supporting school choice programs.

VII. Requested Declaratory Rulings

The CSBE is an administrative agency created by statute. As such, the CSBE can only exercise authority granted to it by statute. The CSBE has no inherent powers. In issuing the declaratory rulings, the CSBE will attempt to determine whether there is a statute that authorizes or prohibits a particular ruling and consider primarily the terms of the pertinent statutes in issuing the ruling as well as relevant arguments made by the parties.

Three statutes are principally relevant to the issues presented. First, C.G.S. § 10-64(d), and § 10-97(b) provide that a board of education that does not maintain an ASTEC must designate at least one ASTEC for "any" of its high school students to attend, with tuition and reasonable transportation to be paid by the Sending Board. The second statute is C.G.S. § 10-65(b). This section provides that a Sending Board must provide opportunities for its students to attend an ASTEC in a number at least equal to the average number of students enrolled by the Sending Board in the ASTEC during the prior three years, in total and into ninth grade, unless an agreement with the ASTEC requires a different number.

ISSUE 1

Can a local or regional board of education that does not maintain an ASTEC limit the number of opportunities available for its students to attend an

ASTEC to the minimum number of opportunities it is required to provide pursuant to § 10-65(b)?

TBOE Position – Issue 1

The TBOE’s answer to this issue is yes.

As there is no written agreement between the TBOE and the R6BOE concerning the enrollment of students, the most pertinent portion of C.G.S. § 10-65(b) provides:

Each local or regional board of education not maintaining an agricultural science and technology education center shall provide opportunities for its students to enroll in one or more such centers in . . . a number that is *at least equal to* the average number of its students that the board of education enrolled in each such center or centers during the previous three school years, provided, in addition to such number, each such board of education shall provide opportunities for its students to enroll in the ninth grade in . . . a number that is *at least equal to* the average number of students that the board of education enrolled in the ninth grade in each such center or centers during the previous three school years. . . .”

(Emphasis added.)

The TBOE argues that the phrase “at least equal to,” like the phrase “not less than,” establishes a minimum quantity requirement. The TBOE acknowledges that §10-65(b) does not establish a maximum opportunities limit.

The TBOE also argues that a Sending Board must be permitted to limit the number of students that can attend an out-of-district ASTEC in order to exercise the right to manage the affairs of its school district, to make decisions regarding the educational opportunities available to its students, and allocate its monetary and non-monetary resources.

The TBOE argues that because such power is granted by the Legislature, the only limits on that power are those approved by the Legislature, including the minimum opportunities requirement in § 10-65(b). Once a Sending Board meets that minimum requirement, however, there is no other restriction set forth in § 10-65(b), or any other legislative mandate, that would curb the Sending Board’s discretion to limit the opportunities available to attend an out-of-district ASTEC. The TBOE argues that the minimum quantity requirement only has any purpose or meaning if there is the authority to place a limit on the total number of student opportunities. If this power did not exist, it would be unnecessary to have created the minimum number of opportunities, because there would always be unlimited opportunities available.

The TBOE cites well-settled principles of statutory interpretation to support its position. These include the principles that courts presume that “each sentence, clause or phrase to have a purpose behind it,” the principle that “the legislature intends sensible results from the statutes it enacts” and that courts “read each statute in a manner that will not thwart its intended purpose or

lead to absurd results.” *Collins v. Colonial Penn Ins. Co.*, 257 Conn. 718, 728-29 (2001). “It is a basic tenet of statutory construction that the legislature [does] not intend to enact meaningless provisions. . . . In construing statutes, we presume that there is a purpose behind every sentence, clause, or phrase used in an act and that no part of a statute is superfluous.” *Echavarría v. National Grange Mutual Ins. Co.*, 275 Conn. 408, 415 (2005). According to the TBOE, a finding that a Sending Board may not limit the opportunities available to students to attend an out-of-district ASTEC through the minimum opportunities requirements of § 10-65(b) would not conform to generally accepted principles of statutory interpretation, because such a finding would render § 10-65(b)’s minimum opportunities requirements meaningless. Instead, the TBOE argues that § 10-65(b) only has meaning if a Sending Board has the discretion to stop enrolling students in an ASTEC after it reaches the three-year average number.

R6BOE Position – Issue 1

The R6BOE’s answer to this issue: No.

The R6BOE argues that the framing of the issue in the Petition improperly presumes that 10-65(b)’s three-year average provision sets a ceiling and not a floor. Further, the R6BOE submits that the TBOE’s position ignores the mandate contained within 10-64(d) that:

(d) Any local or regional board of education which does not furnish agricultural science and technology education approved by the State Board of Education shall designate a school or schools having such a course approved by the State Board of Education as the school which any person may attend who has completed an elementary school course through the eighth grade.

(Emphasis added by the R6BOE.) The R6BOE maintains that construing the provisions of § 10-65(b) as a ceiling and not a floor necessarily creates a conflict with the earlier-enacted § 10-64(d), which directs that “any” student may attend the designated ASTEC. In construing statutes that potentially conflict a court should avoid interpretations that would create a genuine conflict and should seek to harmonize the law by adopting interpretations that, if possible, avoid conflicts between statutes. *See, e.g., Stern v. Allied Van Lines, Inc.*, 246 Conn. 170, 179 (1998).

The R6BOE asserts that so long as school districts can complain of financial constraints, the policy of the state to offer school choice can be undermined. The R6BOE suggests that school district fiscal constraints could be why the Legislature contemplated in § 10-65(b) that Sending Boards and ASTECs could enter agreements concerning enrollment figures, but does not explain why Sending Boards would agree to send more than the three-year average. The R6BOE suggests that any financial issues can be worked out in an agreement between the two districts, noting that it had offered to pay the tuition for the three students that the TBOE felt were excessive.⁵

⁵ The R6BOE also argues that that the TBOE had the financial capacity to enroll the additional students despite its claim that a board needs to be able to control the allocation of its financial resources. The CSBE has not considered the TBOE’s financial capacity in deciding the issues in this case. The TBOE

Declaratory Ruling – Issue 1

The CSBE has concluded that it is constrained by the language of § 10-65(b) to rule that a local or regional board of education that does not maintain an ASTEC may limit the number of opportunities that such board makes available for its students to attend an ASTEC, that is, the number of students for whom the Sending Board will pay tuition, to the minimum number of opportunities it is required to provide pursuant to § 10-65(b). However, we note that the other public school choice programs in Connecticut do not have a comparable limitation on students' entitlement to enroll and when the Legislature enacted the three-year average provision of § 10-65(b) in 2007 it preserved the pre-existing provisions in §§ 10-97(b) and 10-64(d) requiring boards of education to designate an ASTEC program for "any" student to attend. Thus, with due regard for the separation of powers, we respectfully suggest that the Legislature may find it appropriate to re-examine these issues and provide clarification to address the apparent tension between these statutory provisions.

Discussion.

In arriving at this ruling, the CSBE applied C.G.S. § 10-65(b) as written in light of recognized principles of statutory construction. As the TBOE argued, it is a fundamental principle of statutory construction that each sentence, clause or phrase in a statute should be read to have a purpose and meaning, and that this purpose and meaning should be given effect. *Echavarria v. National Grange Mutual Ins. Co.*, 275 Conn. 408, 415 (2005). The TBOE's argument that § 10-65(b) establishes a minimum quantity requirement is consistent with the language of the statute. If § 10-65(b) does not serve to define (and limit) a Sending Board's legal obligation to provide opportunities to attend an ASTEC, it would appear to have no meaning or purpose. If there were no power to limit the total number of student opportunities provided, there would always be unlimited opportunities available, rendering § 10-65(b) superfluous. As no part of a statute can be superfluous, it is legally appropriate to give this portion of 10-65(b) meaning by allowing a board of education that does not maintain an ASTEC to limit the number of opportunities it must make available for students to enroll in the ASTEC designated for its students to attend.

Connecticut General Statutes § 10-65(b) also allows boards of education to enter into written agreements as to the number of students that a Sending Board will enroll in as ASTEC maintained by another board of education. The statute does not prescribe the terms of such an agreement, and the parties could, in the agreement, agree to limit the number of opportunities that a Sending Board may offer to fewer students than may want to attend the designated ASTEC. This supports an interpretation of the statute that allows a Sending Board to limit the number of opportunities it will offer through the three-year average in the absence of an agreement.

has not claimed that it was unable to pay the tuition for the additional students accepted. Its claim is that it has the right to control its expenses. Also, the questions considered are questions of law that should be resolved without reference to a particular Board's financial circumstances.

From the limited information available, it is not possible to discern the Legislature's purpose in enacting the three-year average provision of § 10-65(b) in 2007 while preserving the pre-existing provisions, in §§ 10-97(b) and 10-64(d), that require boards of education to designate an ASTEC program for "any" student to attend. The relevant legislative history, including discussion during the Senate floor debate concerning the underlying bill, does not provide an answer but neither does it reflect an intention to limit the opportunities for students to attend ASTEC programs funded by their school districts. *See* Connecticut General Assembly, Senate transcript, June Special Session, June 25, 2007, at 155-57 (remarks of Senator Finch) and 160 (remarks of Senator Gaffey), available at <https://search.cga.state.ct.us/r/adv/dtsearch.html>; *see also* *Tomasco v. Milford Board of Education*, No. CV074008593, 2007 WL 2755888, at *1-*2, and *7 (Conn. Super. Ct. Aug. 31, 2007) (discussing the then-recent enactment of the three-year average requirement).⁶

We are not aware of, and the parties have not identified, a comparable statutory restriction on students' entitlement to enroll in other public school choice programs in Connecticut. The inter-district magnet school context provides a useful contrast. While so-called "participating districts," i.e., districts that have a partnership agreement or similar relationship with an inter-district magnet school, are subject to a three-year average minimum enrollment requirement unless an agreement specifies otherwise, *see* C.G.S. § 10-2641(l), student choice is protected by a separate provision that expressly authorizes families (from participating and non-participating districts) to enroll directly in inter-district magnet schools and directs the resident district to pay the tuition for any such magnet school. *See* C.G.S. § 10-2641(j) (providing for direct enrollment in inter-district magnet schools).

The tension between §§ 10-97(b) and 10-64(d), on the one hand, and § 10-65(b), on the other, has caused uncertainty concerning the ASTEC enrollment requirements, as the current Petition demonstrates, and boards of education would benefit from clarification in statute. In considering these issues, the Legislature may find it helpful to consider how ASTEC enrollment affects boards of education financially, including how increases in ASTEC enrollment and corresponding increases in tuition payments may affect the Sending and ASTEC Boards' marginal cost of operation. Recognizing that the TBOE's ability to pay tuition for additional

⁶ In *Tomasco*, the Milford Board of Education withdrew its designation of Trumbull High School (THS) as its designated ASTEC. This prevented four Milford students entering the ninth grade that THS had accepted from attending THS. The students sought an injunction to compel Milford to pay for their enrollment at THS. Section 10-65 (b) had just been amended to include the three-year average provision for total students. Milford complied with the three-year average requirement without including the four ninth grade students. The students claimed a violation of § 10-65(b). The Superior Court (Robinson, J.) disagreed, stating: "The language is unambiguous; it does not require anything more than that a certain number of students . . . determined by the yearly average of the past three years, receive funding and transportation from the board to attend such school. . . ." While the language in *Tomasco* concerned the three year average of total students, not entering ninth grade students, the operative language is the same, and the decision can be read to support the TBOE's position. However, at the time of the decision, THS was not the designated school "which any person may attend . . ." *See* C.G.S. § 10-64(d).

students beyond its three-year average is not legally relevant to determination of this Petition, we note the following:

- The Department’s Educational Cost Sharing (ECS) data for 2017-18 indicates that the TBOE received \$4861 per pupil in ECS funding from the State (after the Governor’s holdbacks to ECS). Per pupil expenditure data is not yet available for 2017-18.
- The record of this matter reflects that, for 2017-18, the TBOE was required to pay \$6823 per pupil in tuition to the R6BOE for each student who enrolled in the Wamogo Center with the TBOE’s support. The record of this matter does not include the 2016-17 tuition amount.
- For 2016-17, the most recent year for which Department per pupil expenditure data is available, the TBOE’s total per pupil expenditure figure was \$15,607 and it received \$5482 per pupil in ECS funding.
- For 2016-17 and 2017-18, the R6BOE was entitled to receive a state per pupil grant of \$2824 for each student attending the Wamogo Center.
- At all times relevant to this Petition the law required the Sending Boards to pay the reasonable and necessary cost of transporting its students to a designated ASTEC, up to \$6000 per student. *See* C.G.S. §§ 10-97(c) and 10-97(e).

ISSUE 2

Can a local or regional board of education maintaining an ASTEC (“ASTEC Board”) unilaterally elect to accept and enroll students of a local or regional board of education that does not maintain an ASTEC in a number that exceeds the number of opportunities for students the Sending Board has limited the ASTEC Board to accepting?

TBOE Position – Issue 2

The TBOE’s answer: No.

The TBOE’s position appears to be that an ASTEC Board cannot exceed any limit created by a Sending Board on the number of opportunities it makes available to its students to attend the ASTEC as long as the Sending Board complies with the three-year average requirement. Here, again, the TBOE emphasizes the asserted right of the Sending Board to exercise its broad and discretionary decision-making powers regarding the educational opportunities it makes available to students under its jurisdiction and the allocation of district resources, both monetary and non-monetary. The TBOE claims that not only would the ASTEC Board’s admission of additional students usurp the Sending Board’s power to manage the educational opportunities it offers and its budget in the then-current year, including by incurring unplanned-for tuition and transportation costs, but it would have a lasting impact in future years by increasing the three-year average attendance numbers. The TBOE assumes that the Sending

Board would have financial responsibility for any additional students. Here the R6BOE did not charge the TBOE for the three additional students.

R6BOE Position – Issue 2

The R6BOE's answer: Yes.

The R6BOE asserts that this issue is a corollary of the first issue and incorporates its previous arguments. The R6BOE argues that allowing a Sending Board to limit educational opportunities, and the removal of the ability of an ASTEC to enroll as it deems fit, ensures that there will be empty seats at ASTEC schools while interested students who want to fill those seats are compelled to remain in their districts of origin. The R6BOE relies heavily on the policy goal of providing choice to students and families.

Declaratory Ruling – Issue 2

Nothing in existing law prohibits a student whose district of residence has met its three-year average and thus does not have a legal obligation to pay tuition for additional students to attend an ASTEC from enrolling voluntarily in an ASTEC operated by another school district. Therefore, a local or regional board of education maintaining an ASTEC may unilaterally accept and enroll students of a Sending Board in a number that exceeds the number of students the Sending Board has limited the ASTEC Board to accepting for purposes of determining the Sending Board's tuition obligation, provided the ASTEC Board does not charge the Sending Board for the additional students.

Discussion.

The CSBE has ruled in Issue 1 that a Sending Board may limit to the prior three-year average the number of opportunities that the Sending Board will offer to students and for which the Sending Board will pay tuition. However, the TBOE has not cited any statute that provides a Sending Board with the legal authority to prohibit students who live in the town it serves from attending the ASTEC if the ASTEC Board is willing to allow the student to attend without charging tuition to the Sending Board, and the CSBE is not aware of any such statute. Absent statutory authority, a Sending Board lacks authority to prohibit a student from voluntarily enrolling in another district's ASTEC program, and similarly lacks authority to prohibit an ASTEC Board from accepting and enrolling students within the jurisdiction of the Sending Board who wish to enroll in the ASTEC, and which the ASTEC Board wishes to accept.

Reinforcing our view that Sending Boards do not have this authority under Connecticut law is the fact that students in Connecticut may attend schools in school districts other than the district in which they live. Indeed, students in our State attend public schools in other districts pursuant to local board of education policies or by agreement (normally with tuition). No statute has been cited that provides that a board of education may prohibit a student from attending an ASTEC pursuant to a student/family decision to do so; or that an ASTEC is prohibited from enrolling a student other than a student enrolled by a board of education which does not maintain

an ASTEC. A board of education that maintains an ASTEC may accept students in a number that exceeds the number of opportunities offered by a Sending Board.

Given the policy issues raised by students attending school in other school districts (often by paying tuition) outside of statutory programs, such as inter-district magnet schools, families and districts would benefit from legislative attention to out-of-district enrollment practices in Connecticut.

ISSUE 3

Are the rulings on issues 1 and 2 impacted by whether an ASTEC Board accepts and enrolls some or all of the students of a Sending Board on a tuition-basis versus non-tuition-basis? How does the tuition-paying status impact the manner in which the three-year averages under § 10-65(b) are calculated? Specifically, if an ASTEC Board accepts and permits to attend, on a tuition-free basis, a Sending Board's student, must that student be counted in the number of students attending the ASTEC as part of the calculation of the minimum number of opportunities the board of education is required to provide students in future years—on a tuition-basis—pursuant to § 10-65(b)? If so, (a) can the Sending Board limit the number of its students that attend an ASTEC on a tuition-free basis; and (b) can the ASTEC Board charge tuition for such student's attendance in future years?

TBOE Position – Issue 3

The TBOE's position is that if an ASTEC Board is permitted to accept students from a Sending Board beyond the three-year average number, the ASTEC Board may not charge tuition to the Sending Board for the additional students, must maintain such students' tuition-free status continuously until graduation, and such students are not included in the calculation of the three-year average.

The TBOE argues that C.G.S. § 10-65(b) presumes an ASTEC Board will generally charge tuition to the Sending Board for students it enrolls in an ASTEC. The TBOE is concerned that an ASTEC Board may accept additional students on a tuition-free basis to increase the three-year average number of students attending the ASTEC, thus obligating the Sending Board to offer more opportunities for students to attend the ASTEC in future years on a tuition-basis.

The TBOE then argues that excluding additional students from the three-year average calculation will not solve other foreseeable issues under § 10-65(b) arising from an offer of tuition-free admission. If an ASTEC Board offers a student tuition-free admission only for one year, the student's Sending Board would be placed in the uncomfortable position of having to decide between maintaining a balanced budget by denying the student continued attendance at the ASTEC, or paying for the student's attendance at the expense of other district programs and opportunities. Such a dilemma would be avoided, however, if, in addition to not counting the tuition-free student towards the Sending Board's three-year average, the ASTEC Board is

required to maintain such student's tuition-free status for the remainder of the student's high school education.

R6BOE Position – Issue 3

The R6BOE argues that an offer of free tuition for a given year should carry no presumption that the offer will continue. Offering free tuition is necessarily a product of an agreement, as there is no provision for this in the statutes. The Legislature anticipated that situations facing both Sending Boards and ASTECs in determining the number of enrollments to offer would be numerous and varied. Independent agreements between boards is the most efficient and effective way of dealing with this instead of a “one size fits all” statutory mandate regarding a ceiling or floor.

The R6BOE denies that it paid the tuition of the three additional students to create a new baseline in the three-year averages.

The R6BOE also argues that requiring tuition-free status to continue through the entirety of the students' years at the ASTEC would unreasonably place a financial burden on ASTECs and the local boards within which they operate. The R6BOE asserts that the CSBE should be aware that ASTECs do not enjoy the subsidies in place for other school choice programs. Compelling the inequitably funded R6BOE to pay for the education of Thomaston students would represent a windfall for Thomaston, and a departure from the statutory expectation that a local board of education is responsible for meeting the educational needs of its own students, including when such needs must be met elsewhere.

The R6BOE further argues that the TBOE is best situated to anticipate how many students may want to apply to the various school choice options and to budget accordingly. The R6BOE concludes that, while the TBOE's position has the virtue of offering somewhat more predictability, it also has the debilitating effect of pushing back directly against the state's school choice goals.

Declaratory Ruling – Issue 3

In view of the Ruling on Issue 2, if an ASTEC Board accepts a student who enrolls independently, i.e., has not been enrolled in the ASTEC by the board of education in the town where the student resides, that board need not count the student when determining the minimum number of opportunities the board is required to provide pursuant to § 10-65(b). In addition, there is no statute explicitly requiring an ASTEC Board that permits a student to attend on a tuition free basis in one year to permit the student to attend on a tuition free basis in other years. However, just because a practice is not explicitly prohibited by law does not mean it is ethically or educationally appropriate. Absent clear and complete notice to families at the time of enrollment about the possibility of tuition in the future and the amount of such possible tuition so that families can make an informed decision about enrolling, charging tuition to a family after accepting a student on a tuition free basis raises serious educational stability concerns because it could materially affect the ability of some students to remain in an ASTEC program. Leaving

an ASTEC program because of inability to pay tuition could have a serious adverse impact on a student, including potentially significant disruption to the student's high school education. A decision to begin charging tuition midstream also raises fairness and equity concerns in view of families' varying abilities to pay tuition. The CSBE expects that boards of education that operate ASTECs will exercise great caution in this area and ensure that any tuition decisions are consistent with the educational interests of the state, the interests of students who are seeking enrollment in an ASTEC, and the ethical and legal responsibilities of boards of education to their students. See C.G.S. §§ 10-4a and 10-220.

Discussion.

The CSBE bases the first sentence of this ruling squarely on the language of the statute. The statute provides that where the boards do not have a written contract, a Sending Board “shall provide opportunities for its students to enroll in the ninth grade in . . . a number that is at least equal to the average number of students that the board of education enrolled in the ninth grade in each such center or centers during the previous three school years. . . .” C.G.S. § 10-65 (b) (emphasis added) (the determination of the overall number of opportunities to be provided utilizes the same language). A student who enrolls in an ASTEC without the authorization of the board of education in the town where the student resides is not a student “that the board of education enrolled” in the ASTEC, and is not counted in determining the three-year enrollment average.

This ruling gives effect to the decision of the Sending Board as to the number of opportunities it is able to provide. When the parties do not have a written contract, C.G.S. § 10-65 (b) requires a Sending Board to maintain a level of support consistent with its past level of support measured by the number of students the Sending Board enrolled in the ASTEC in the previous three years. Requiring the maintenance of this level of support gives effect to what the Sending Board was willing to do.

The CSBE bases the second sentence of this ruling on the absence of a statute requiring the waiver of tuition by an ASTEC Board. The statutes contemplate that a board of education operating an ASTEC will charge tuition to Sending Boards, and possibly also to families. Such out-of-district arrangements occur throughout our State in non-ASTEC contexts. If an ASTEC Board is to be required to waive tuition, that requirement must be in a statute. We are not aware of any statute that requires an ASTEC Board to waive tuition. Absent a statute, the CSBE does not have the legal authority to require a board of education which allows a student to attend an ASTEC without charge in a particular year to do so in any subsequent year. However, concerns of educational stability, fairness and equity, noted above, counsel great caution in this area and may call for legislative attention to this question.

ISSUE 4

As applicable to the 2017-2018 school year, did the TBOE have the authority under Connecticut General Statutes § 10-220, § 10-65, or any other provision of the Connecticut General Statutes, to limit the number of TBOE

students the R6BOE was permitted to accept to attend the Wamogo Center to the minimum number required by § 10-65(b)?

Declaratory Ruling – Issue 4

As applicable to the 2017-2018 school year, the TBOE did have the authority to limit the number of opportunities that it provides for students to enroll in an ASTEC, provided that the TBOE met the three-year average requirements of § 10-65(b). However, the TBOE does not have legal authority to prevent a student from otherwise enrolling in the ASTEC program, and it may not limit the R6BOE's ability to accept other students.

Discussion.

It is unnecessary to summarize the parties' positions here. The rulings on Issues 1 and 2 control the ruling on this issue.

ISSUE 5

As applicable to the 2017-2018 school year, did the R6BOE exceed its authority under § 10-65 or any other provision of the Connecticut General Statutes to accept TBOE students to attend the Wamogo Center when it accepted additional TBOE students in excess of the number that the TBOE had authorized the R6BOE to accept?

Declaratory Ruling – Issue 5

As applicable to the 2017-2018 school year, the R6BOE did not exceed its authority under § 10-65 or any other provision of the Connecticut General Statutes by accepting TBOE students to attend the Wamogo Center, without charging tuition to the TBOE, in excess of the number that the TBOE had authorized the R6BOE to accept.

Discussion.

It is unnecessary to summarize the parties' positions here. The ruling on Issue 2 controls the ruling here.

There is no statute prohibiting a board of education that maintains an ASTEC from accepting students in a number that exceeds the number of opportunities offered by a Sending Board. However, the Sending Board is not obligated to pay tuition for students other than students for whom the Sending Board is required to provide opportunities in accordance with C.G.S. § 10-65(b). Therefore, the R6BOE did not exceed its authority under the statutes when it accepted more students than the TBOE had authorized the R6BOE to accept, without requiring payment from the TBOE for the additional students.

ISSUE 6

How should the TBOE calculate the number of opportunities it is required to provide students to attend an ASTEC during the 2018-2019 school year?

Declaratory Ruling – Issue 6

The TBOE should calculate the number of opportunities it is required to provide students to attend an ASTEC during the 2018-2019 school year in accordance with Public Act. 18-182, § 16. If the number of students admitted are not at least equal to the three-year averages described in C.G.S. § 10-65(b), the TBOE should enroll other students who wish to enroll in an ASTEC until the enrollment is at least equal to each three-year average.

Discussion.

After the filing of the Petition, the General Assembly enacted Public Act 18-182, § 16. This provision states:

Notwithstanding the provisions of section 10-65 of the general statutes, no local or regional board of education may deny, or otherwise prohibit, any student under such board's jurisdiction from enrolling in an agricultural science and technology education center for the school year commencing July 1, 2018, if such student (1) was enrolled in an agricultural science and technology education center during the school year commencing July 1, 2017, or (2) received notice on or before April 1, 2018, that such student was admitted for enrollment in an agricultural science and technology education center for the school year commencing July 1, 2018.

This statute specifically addresses the admission of students to an ASTEC during the school year that is the subject of the requested declaratory ruling. The TBOE is bound by its terms. This statute prohibits boards of education from denying, or otherwise prohibiting, two categories of students under the board of education's jurisdiction from enrolling in an agricultural science and technology education center. These categories are: (1) students enrolled in an ASTEC during the school year commencing July 1, 2018, and (2) students who received notice before April 1, 2018 that they were admitted for enrollment in an ASTEC for the school year commencing July 1, 2018.

The TBOE should comply with the statute. If the number of students admitted are not at least equal to the three-year averages described in C.G.S. § 10-65(b), the TBOE should enroll other students who wish to enroll in an ASTEC until the enrollment is at least equal to each three-year average.

We note that this Public Act applies only to the 2018-2019 school year, and it does not appear to have any effect on the other issues decided in this declaratory ruling.

ISSUE 7

If a Sending Board enters into a written agreement with an ASTEC Board regarding the provision of opportunities for its students to attend an ASTEC as permitted by § 10-65(b), can the parties decide in such agreement that in future years, whether governed by the agreement or after the agreement has expired, numbers that are less than the actual numbers of students that attended the

ASTECC in years governed by the agreement will be used in calculating the number of opportunities for students to attend the ASTEC that the Sending Board is required to provide pursuant to § 10-65(b)? Or must the actual number of students that attended the ASTEC be used? For example, is it permissible and enforceable under § 10-65(b) for the parties to agree to the following: “For the current year, Sending Board A agrees to send to ASTEC B: 8 students that will be counted as ninth graders, 4 students that will be counted as students in grades 10, 11, or 12, and an additional 3 students that will not be counted towards Sending Board A’s three-year average number of required students in future years under § 10-65(b)”?

TBOE Position – Issue 7

The TBOE has not yet entered into a written agreement containing any such provision, but has considered the prospect of entering into an agreement containing such a provision. *See, e.g., Memorandum of Understanding between Regional School District No. 6 and Regional School District No. 10* (Petition, Exhibit J). The TBOE seeks a declaratory ruling regarding whether a Sending Board meets its obligations under § 10-65(b) if, following the expiration, or otherwise in the absence, of a written agreement, it provides opportunities to students to attend an ASTEC in accord with three-year averages based on attendance numbers previously agreed to between the Sending Board and the ASTEC Board under a prior private agreement, rather than actual numbers of students that attended the ASTEC in the applicable years.

R6BOE Position – Issue 7

The R6BOE posits that, in general a sending board and ASTEC should be able to arrive at terms as they see fit under an agreement contemplated by General Statutes § 10-65(b). It contends that the Legislature did not place any restrictions upon boards in creating the terms for these agreements. By permitting agreements, the Legislature recognized the complex and varied circumstances affecting both sending boards and ASTECs that might influence what the appropriate student enrollment might be. The R6BOE asserts that wherever an agreement between districts is feasible, the Legislature wanted to ensure that an agreement was an option.

The R6BOE position is that such agreements should be permitted.

Declaratory Ruling – Issue 7

Connecticut General Statutes § 10-65(b) sets forth two distinct ways to determine the number of opportunities which must be offered for students to enroll in an ASTEC (in total and for ninth grade students). These are: (1) a written agreement between the Sending and ASTEC Boards specifying the number of opportunities for the Sending Board’s students to enroll in an ASTEC(s); or, “in the absence of” such an agreement, (2) a number of opportunities at least equal to the average number of students the Sending Board enrolled in each center during the previous three school years. The three year average applies “in the absence” of a written agreement. If the “future years” are governed by an agreement, the number of opportunities

specified in the agreement controls. If no agreement governs the future years, the three year average applies.

Discussion

This request for a ruling raises the issue of whether parties to such an agreement can agree on the number of students that will be considered to have attended the ASTEC during a particular year regardless of the number of students that actually attended the ASTEC in that year. The purpose of such a provision appears to be to control the calculation of the three-year average number of students of the Sending Board that attended the ASTEC if the parties fail to extend or renew the agreement.

The TBOE poses two questions in this request. The first, as modified for brevity, is as follows:

In a written agreement permitted by C.G.S. § 10-65(b), can the parties decide that in future years, *whether governed by the agreement or after the agreement has expired*, numbers that are less than the actual numbers of students who attended the ASTEC in years governed by the agreement will be used in calculating the number of opportunities for students to attend the ASTEC that the Sending Board is required to provide, or must the actual number of students that attended the ASTEC be used?

(emphasis added).

Given the terms of the statute, if the future years” are “governed by the agreement,” the parties may agree on the number of students to be used in calculating the number of opportunities in those years. However, the phrase “after the agreement has expired” is indistinguishable from the phrase “in the absence of such an agreement” that is used in the statute to indicate when the three year averages are to be used to determine the number of opportunities. Thus, “after the agreement has expired,” the three-year average of “the number of its students that the board of education enrolled,” either in total or in the ninth grade would define the Sending Board’s obligation. In arriving at this ruling, the CSBE is following the terms of the statute. The CSBE notes that the ultimate beneficiaries of the provisions of this statute, including the maintenance of a board’s level of support, are the students, not the boards of education.

However, the statute does not place any restrictions on the terms of the written agreement, and does not authorize the CSBE to do so. Thus, it may be possible for the parties to provide that particular terms in a written agreement may survive the expiration of the agreement as to other terms.

In its second question, the TBOE inquires as to the permissibility and enforceability of a hypothetical agreement. In the hypothetical agreement the Sending Board agrees to send to an ASTEC specific numbers of students to “be counted as” students in particular grades as well as: “an additional 3 students that will not be counted towards Sending Board A’s three-year average number of required students in future years under § 10-65(b).” The CSBE is not able to declare

the permissibility or enforceability of this “agreement” based on the brief statement in the requested ruling. Such a declaration of enforceability would require a determination of the intent of the parties. This may require knowledge of other provisions in the agreement and particular surrounding circumstances. Furthermore, this agreement would affect the educational opportunities of high school students and educational policy concerns may play a role in the interpretation of such an agreement, depending on the particular facts. However, the application of the principles outlined above will assist in determining the permissibility and enforceability of this hypothetical agreement.

DRAFT

CONNECTICUT STATE BOARD OF EDUCATION

PETITION OF THE :
THOMASTON BOARD OF EDUCATION :
FOR A DECLARATORY RULING : October 25, 2018

PETITIONER'S COMMENTS REGARDING
DRAFT DECLARATORY RULING

Pursuant to Connecticut General Statutes § 4-176, and Regulations of Connecticut State Agencies § 10-4-21, the Thomaston Board of Education ("Petitioner" or "TBOE"), submitted a petition for declaratory ruling to the Connecticut State Board of Education ("CSBE") dated April 26, 2018 (the "Petition" or "Pet."). The parties, the TBOE and the Regional School District No. 6 Board of Education ("R6BOE") were emailed a draft declaratory ruling on October 17, 2018 and provided the opportunity to submit written comment on the draft declaratory ruling by October 25, 2018. The TBOE submits its written comments below.

A. Comments regarding Section V, Facts of the Current Dispute

- It is requested that the facts on page 6 be revised to include a finding that the July roster of students included the five ninth grade students that had been identified in **January and March**.
- It is requested that the facts on page 6 be further revised to state that the TBOE did not object to the roster received in July **at that time**. Specifically, the TBOE did not object to the inclusion of a sixth ninth grader because at the time it believed that the additional sixth ninth grader had been included because that student had applied while a resident of Thomaston but had since moved out of Thomaston or otherwise planned to disenroll from the

district. It was later determined that the sixth student remains a resident of Thomaston. (See Pet., p. 7 fn. 3.)

- It is requested the first sentence of the second full paragraph on page 6 be revised as discussed below (the sentence beginning, “On August 3, 2017, the R6BOE accepted the three remaining students on the waiting list.”) First, the term “accepted” is ambiguous in this context because the students’ applications had already been at least provisionally “accepted” as evidenced by their placement on a waitlist, but they had not yet been approved by the TBOE or enrolled by the R6BOE. Second, as is paramount to the dispute which gave rise to the Petition, it should be noted that the R6BOE’s actions were undertaken unilaterally or without the TBOE’s knowledge or approval. Third, while the paragraph notes that “[t]he TBOE objected to the increase;” it does not address the fact that the TBOE did not learn of the additional acceptances on its own until later in the month and were not provided notice by the R6BOE directly until late August. The lack of notice is also important to the nature of the dispute, and when the TBOE became aware of such action, it objected to such additional enrollments. Fourth, the final sentence reading, “The R6BOE did not charge Thomaston tuition for the three additional students;” could be interpreted in a misleading manner. Given that the paragraph describes both that three more total students were accepted (21) than the total three-year average (18) and that three more ninth grade students were accepted (8) than the ninth-grade three-year average (5), the phrase *the* three additional students could

suggest that the R6BOE did not charge the TBOE for the three additional ninth grade students. In actuality, the tuition bill broke down the costs so as not to charge tuition for only two ninth graders and one tenth grader. The TBOE's position is that the TBOE cannot be charged for the three additional ninth graders. (See Pet., pp. 21-24.) Fifth and finally, it is requested that the paragraph explicitly state that the invoice and tuition-charging status discussed was limited to the 2017-2018 school year. This is particularly important given the new invoice recently received by the TBOE from the R6BOE for the 2018-2019 school year which charges the TBOE tuition for 21 students despite the CSBE's draft Rulings (**attached as Exhibit S**). Based on all these concerns, it is suggested that the paragraph be revised as follows: "On August 3, 2017, the R6BOE unilaterally mailed letters of acceptance to the three remaining students on the waiting list without the TBOE's approval or authorization. Later in the month of August, the TBOE learned of the additional acceptances and objected to them. Despite the TBOE's objection, the R6BOE ultimately accepted and enrolled 21 Thomaston students, including eight ninth grade students. This was three more students than the TBOE total student three-year average of 18 and three more ninth grade students than the TBOE three-year average of ninth grade admissions of five. In October 2017, the R6BOE mailed a tuition invoice for the 2017-2018 school year to the TBOE listing a total enrollment of 21 students and charging the TBOE for 18 students."

B. Comments regarding Section VI, The Parties' General Legal Arguments

- It is recommended that the portion of the first sentence reading, “the issue of deciding how many students will attend agricultural . . .” be revised to read, “the issue of deciding how many **opportunities will be offered to students will**to attend agricultural” The revised language more accurately reflects the statutory language of Connecticut General Statutes § 10-65(b) which requires that a Sending Board provides “opportunities” to students to attend an agricultural science and technology education center (“ASTECS”), rather than requiring that certain numbers of students actually attend. This reflects the practical reality that the number of students that attend an ASTEC is based in part on student interest in attending.

C. Comments regarding Section VII, Requested Declaratory Rulings, Issue 1

- On page 9, it is requested that the last sentence of the first paragraph be revised to reflect the statutory scheme of § 10-65(b) that a Sending Board is required to provide a minimum number of *opportunities* (as discussed above), rather than ensure that a minimum number of students actually attend, as the number of students that actually attend is subject to student interest. It is recommended that it be revised as follows: “Instead, the TBOE argues that § 10-65(b) only has meaning if a Sending Board has the discretion to ~~stop enrolling students in an~~ **limit opportunities to attend an out-of-district** ASTEC after it reaches the three-year average numbers.”

- On Page 9, following a quotation of a portion of Connecticut General Statutes § 10-64(d) is a summary of the statutory language that reads as follows, in relevant part: “the earlier-enacted § 10-64(d), which directs that ‘any’ student may attend the designated ASTEC.” This abbreviated summary of the language of § 10-64(d) changes the meaning of the statutory language. Importantly, § 10-64(d) provides that “any person” may attend an ASTEC **“who has completed an elementary school course through the eighth grade.”** (Emphasis added.) The emphasized language is as important to the meaning of the statutory language as the word “any,” and it is the TBOE’s position that the emphasized language is determinative of the meaning of § 10-64(d) when interpreted in the presence of § 10-65(b), as discussed in Petitioner’s Reply to the Respondent’s Response to the Petition dated August 24, 2018 (the “Reply”), and further discussed herein. Therefore, it is recommended that such portion of that sentence be revised as follows: “the earlier-enacted § 10-64(d), which directs that ‘any’ student **who has completed the eighth grade** may attend the designated ASTEC.”
- On Page 10, there is discussion regarding “other public school choice programs in Connecticut” that they “do not have a comparable limitation on students’ entitlement to enroll” Those programs are not the subject of the Petition and therefore, they are not relevant to the ruling and the discussion is not needed. If included, however, it is requested that other distinctions between those programs and the statutory scheme applicable to ASTECs be discussed, most notably, how each program is funded, the

cost to local districts for their students' participation in such programs, and the grants available for such programs as distinguished from ASTECs.

- The discussion section regarding Issue 1 is largely devoted to discussion of § 10-64(d)'s requirement that a Sending Board designate an ASTEC "as the school which any person may attend who has completed an elementary school course through the eighth grade." Again, reference to that language throughout this section and the entire ruling, specifically, the use of the word "any," should include a full quotation of the relevant statutory language, specifically, that it applies to "any" student "who has completed . . . the eighth grade." Moreover, the discussion seems to conclude that § 10-64(d) is ambiguous and requires further legislative clarification to "address the apparent tension" between §§ 10-64(d) and 10-65(b). This conclusion reflects the R6BOE's argument that § 10-64(d) supersedes § 10-65(b) and requires that a Sending Board permit any student interested in an ASTEC to attend. Although the TBOE acknowledges that the draft Ruling does not agree with that argument and instead rules in favor of the TBOE, given the discussion devoted to the topic, the TBOE requests that its position on the topic be included in the discussion. As discussed in its Reply, the TBOE's position regarding the cited language of § 10-64(d) is that it is not ambiguous and that it is easily reconciled with § 10-65(b) by interpreting the language of § 10-64(d) as setting forth non-discrimination-like **eligibility requirements** for offering opportunities for students to attend ASTECs. The discussion focuses on referring interpretation of § 10-64(d) in light of § 10-

65(b) to the Legislature, and therefore, it contemplates that the Legislature may rely on the ruling in considering the topic. Accordingly, it is only fair that the TBOE's position on the issue—which is rooted in generally accepted principles of statutory interpretation—be set forth in the ruling so that the Legislature can give equal consideration to both parties' views on the matter.

- Regarding the citation to *Tomasco v. Milford Board of Education* on page 11 and the discussion of that case in footnote 6, it would benefit readers to note that the three-year average requirement for ninth grade students was not enacted until *after Tomasco* was decided to avoid confusion regarding the quoted portion of the court's decision.
- On pages 11 and 12, although acknowledging that the TBOE's ability to pay tuition is not relevant to the CSBE's ruling, several notes regarding the state's statutory funding scheme for school choice options are set forth. If the CSBE deems these notes relevant to the Petition and important to include, then the TBOE requests the opportunity to review the sources of the facts cited therein, and recommends that the information provided be corrected or supplemented as follows:
 - Regarding the first bullet point, it provides that "data for 2017-18 indicates . . ." but also states that "data is not yet available for 2017-18." Clarification is needed.
 - Regarding the second bullet point, it states the 2017-18 tuition amount the R6BOE charged the TBOE, and that "[t]he record of this

matter does not include the 2016-17 tuition amount.” However, Exhibit I attached to the Reply includes the R6BOE’s invoice for tuition for 2016-17 which charged \$6,822 per student.

- Regarding the third bullet point, it states that the R6BOE was entitled to receive state per pupil grants of \$2,284 for each student attending the Agricultural Science & Technology Center at Wamogo Regional High School (the “Wamogo Center”). According to reports from the Office of Legislative Research dated February 16, 2018 (**attached as Exhibit T** and available online at: <https://www.cga.ct.gov/2018/rpt/pdf/2018-R-0030.pdf>) and June 18, 2018 (**attached as Exhibit U** and available online at: <https://www.cga.ct.gov/2018/rpt/pdf/2018-R-0143.pdf>), the R6BOE, as a board operating an ASTEC, was eligible for ASTE grants of \$3,200 per student. Additionally, the latter report notes that the grant was recently increased to \$4,200 per student effective July 1, 2018.

D. Comments regarding Section VII, Requested Declaratory Rulings, Issue 2

- At the top of page 13, the first full sentence reads: “Here the R6BOE did not charge the TBOE for the three additional students.” It is recommended that such sentence be revised as follows: “Here the R6BOE charged the TBOE for eighteen (18) of the twenty-one (21) students that attended in 2017-2018.” This revision is necessary because, as previously discussed, there is dispute regarding *which* three additional students the R6BOE did not

charge the TBOE tuition for, and because the R6BOE *has* charged additional tuition for such students for the 2018-2019 school year. (See Exhibit S.)

- On page 13, the Ruling on Issue 2 concludes that an ASTEC Board may unilaterally accept and enroll additional students of a Sending Board in a number that exceeds the Sending Board's three-year average ***“provided the ASTEC Board does not charge the Sending Board for the additional students.”*** (Emphasis added.) The final portion of the Ruling is an important proviso which outlines a limit on an ASTEC Board's ability to accept additional Sending Board students in excess of the Sending Board's three-year averages, namely, that the ASTEC Board cannot charge tuition for such additional students. That limitation has an important consequence as later outlined in the Ruling on Issue 3, namely, that such additional students will not be counted as part of the calculation of the Sending Board's averages. Because the Ruling on Issue 3 of how to count additional tuition-free students under the three-year averages is inextricably linked to the Ruling on Issue 2, it is important to reference for readers, which may include the Legislature, the impact of the Ruling on Issue 2 on calculating the three-year averages. Therefore, it is recommended that the following additional sentence be added to the end of the Ruling on Issue 2: “Further, as discussed in the Ruling on Issue 3, such additional students shall not be counted when determining the minimum number of opportunities the Sending Board is required to provide pursuant to § 10-65(b).”

- As discussed above, the ruling that an ASTEC Board cannot charge tuition for additional students that exceed the Sending Board’s three-year averages is an important limitation on the ruling that an ASTEC Board can accept additional students over and above those averages. To emphasize the importance, it is requested that where the discussion refers to an ASTEC Board’s ability to accept additional students, the tuition-free limitation be included as well. Therefore, the following revisions are recommended:

- Page 13, last sentence of the second to last paragraph: “. . . and which the ASTEC Board wishes to accept, **provided the ASTEC Board does not charge the Sending Board for such additional students.**”
- Page 14, first full sentence: “A board of education that maintains an ASTEC may accept students in a number that exceeds the number of opportunities offered by a Sending Board, **provided the ASTEC Board does not charge the Sending Board tuition for the additional students.**”

E. Comments regarding Section VII, Requested Declaratory Rulings, Issue 3

- On page 15, under the “R6BOE Position – Issue 3” section, is the following sentence: “Compelling the inequitably funded R6BOE to pay for the education of” Although the TBOE understands that this is stated as a position of the R6BOE, the way the phrase “inequitably funded” is used may

lead a reader to conclude that the CSBE has made a factual determination that the R6BOE is “inequitably funded.” It is recommended that there be clarification that this is only the opinion of the R6BOE.

- The Ruling on Issue 3 discusses the ethical and educational appropriateness of an ASTEC Board accepting a student on a tuition-free basis in one year, and then charging that student’s family or that student’s Sending Board tuition for that student’s attendance in future years. As the Ruling states, such a practice raises “serious educational stability concerns,” could “have a serious adverse impact on a student,” and “raises fairness and equity concerns” Given the fact that the R6BOE has since implemented this exact practice by charging the TBOE tuition for the students it accepted in excess of the three-year average requirements and on a tuition-free basis during the 2017-2018; see Exhibit S; the TBOE urges the CSBE to reconsider its position on this concern. The TBOE asks that the CSBE rule, as initially requested by the TBOE in the Petition, that when an ASTEC Board accepts and enrolls a student on a tuition-free basis in one year, the ASTEC Board must maintain such tuition-free enrollment for the entirety of the student’s high school education; see Pet., p. 18; or minimally, explicitly state that such a student’s Sending Board (here, the TBOE) shall not be required to pay tuition for such students in future years.

F. Comments regarding Section VII, Requested Declaratory Rulings, Issue 4

- It is requested that the Ruling on Issue 4 be revised to fully reflect the application of the Rulings on Issues 1, 2, and 3 by adding the following sentence to the end of the Ruling on issue 4: “Notwithstanding that limitation, during the 2017-2018 school year the TBOE was not required to pay tuition for any additional students accepted in excess of the three-year average requirements of § 10-65(b), is not required to pay tuition for such students in future years, and such students shall not be counted in calculating the TBOE’s three-year average requirements.”

G. Comments regarding Section VII, Requested Declaratory Rulings, Issue 5

- It is requested that the Ruling on Issue 5 be revised to fully reflect the application of the Rulings on Issues 1, 2, and 3, and the discussion under Issue 5, by adding the following sentence to the end of the Ruling on Issue 5: “**However, the TBOE was not required to pay tuition for any additional students accepted in excess of the three-year average requirements of § 10-65(b), is not required to pay tuition for such students in future years, and such students shall not be counted in calculating the TBOE’s three-year average requirements.**”

H. Comments regarding Section VII, Requested Declaratory Rulings, Issue 6

- The Ruling on Issue 6 requires clarification and revision. As requested in the Petition, the TBOE’s requested ruling seeks a determination of how the

students that attended the Wamogo Center during the 2017-2018 school year should be counted in calculating the number of opportunities the TBOE is required to provide during the 2018-2019 school year. See Pet., pp. 21-24. Based on the Rulings on Issues 1, 2, 3, 4, and 5, the TBOE is only required to provide the minimum number of opportunities required by the three-year average requirements of § 10-65(b) (see Rulings on Issues 1 and 4), that the TBOE is only required to pay tuition for the number of students it is required to provide opportunities for according to the three-year average requirements (see Rulings on Issues 1, 2, and 5), and that the TBOE is not required to count towards the three-year average calculation any additional students accepted and enrolled by the R6BOE above the minimum number of opportunities required (see Ruling on Issue 3). Based on those rulings, and the TBOE's original request for a declaratory ruling on this issue in the Petition, the TBOE requests that the CSBE rule as follows: "For purposes of calculating the average numbers of opportunities the TBOE is required to provide under § 10-65(b), the TBOE shall be considered to have provided opportunities to attend the Wamogo Center during the 2017-2018 school year to eighteen (18) Thomaston students total, five (5) in the ninth grade, six (6) in the tenth grade, four (4) in the eleventh grade, and three (3) in the twelfth grade. Petitioner further seeks a declaratory ruling that the three (3) additional ninth grade Thomaston students enrolled in the Wamogo Center by the R6BOE shall have attended the Wamogo Center tuition-free for the 2017-2018 school year and shall not

be counted towards the TBOE's three-year averages under § 10-65(b) in future years.”

- The Ruling on Issue 6 and the following discussion examine Public Act 18-182, § 16. The draft declaratory ruling provides an accurate summary of that law. However, clarification regarding its relationship to the requirements of § 10-65(b) is required. As summarized, P.A. 18-182 prohibits local or regional boards of education from denying or prohibiting students that were enrolled or admitted for enrollment to an ASTEC prior to April 1, 2018 from enrolling in that ASTEC for the 2018-2019 school year. As applied to the TBOE, that means the TBOE cannot deny or prohibit a Thomaston student that was enrolled or admitted for enrollment to the Wamogo Center prior to April 1, 2018 from enrolling in the Wamogo Center for the 2018-2019 school year. The TBOE does not dispute that application of the law and has not denied or otherwise prohibited any Thomaston students from attending the Wamogo Center during either the 2017-2018 or 2018-2019 school years. However, P.A. 18-182 does not impact the application of § 10-65(b) and the TBOE's ability to limit the number of opportunities it offers to students **on a tuition-basis** thereunder (see Ruling on Issue 1) to attend the Wamogo Center for the 2018-2019 school year as long as it does not deny or prohibit the enrollment of any of the students to which P.A. 18-182 applies. The Ruling on Issue 2 is consistent with P. A. 18-182 in concluding that a Sending Board cannot prevent a student's family from enrolling an additional student voluntarily (at its own expense) or an ASTEC from

enrolling additional students provided the ASTEC Board does not charge the Sending Board for the additional students. But just because a Sending Board, like the TBOE, cannot *deny or prohibit* enrollment of students to which P.A. 18-182 applies in an ASTEC does not mean that the Sending Board is now *obligated* to provide for those students' enrollment in the ASTEC, **on a tuition-basis**, to comply with § 10-65(b). The TBOE can comply, and has complied, with both P.A. 18-182 and § 10-65(b) by not denying or prohibiting Thomaston student enrollment in the Wamogo Center, but only **paying tuition** for the number of students for which it is required to provide opportunities according to § 10-65(b). The fact that P.A. 18-182 does not control how the three-year averages are calculated under § 10-65(b) and the distinction between the two laws requires additional clarification.

I. Minor typographical or grammatical errors

- Page 4: The second sentence of the first full paragraph contains an additional word that should be corrected by striking the word "in" as follows: "The General Assembly added subsection (d) ~~in~~ to C.G.S. § 10-64 in 2004."
- Page 4: The quotation of § 10-65(b)'s language adds an additional word to the statutory language and should be corrected by striking the second "and" as follows: "Each local or regional board of education not maintaining an agricultural science and technology ~~and~~ education center shall"

- Page 6, footnote 3: The footnote appears to be incomplete, excluding the word “students” at the end, including a decimal number, and including a “(Cite)” placeholder.
- Page 7: The second paragraph of Section VII begins by stating that three statutes are relevant to the issues. The second sentence begins “first,” and then list two statutes, and the third sentence begins “the second statute” and lists a third statute. To correct the number agreement, the relevant parts of the paragraph should be corrected as follows: “Three statutes **The Ffirst two statutes**, C.G.S. The ~~second~~**third** statute”
- Page 8: The last sentence of the second to last paragraph repeats the word “of.” It is recommended that it be corrected as follows: “If this power did not exist, it would be unnecessary to have created the minimum number of ~~of~~ opportunities **requirement**, because there would always be unlimited opportunities available.”
- Page 8: The second sentence of the last paragraph contains an extraneous “that.” It is recommended that it be corrected as follows: “These include the principles that courts presume ~~that~~ “each sentence, clause or phrase to have a purpose behind it,” the principle”
- On page 20, the sentence beginning “Given the term of the statute” is missing parentheses (“) around the quoted term “future years.”

**PETITIONER,
THOMASTON BOARD OF EDUCATION**

By: _____

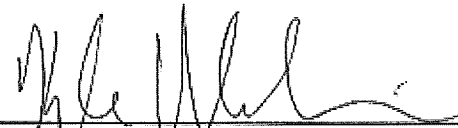

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petitioner's Comments Regarding Draft Declaratory Ruling has been served upon the following by regular mail, and email, this 25th day of October 2018:

Louis Todisco, Attorney
CT State Department of Education
Suite 605
450 Columbus Boulevard
Hartford, CT 06103-1801
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Kyle A. McClain

EXHIBIT S

REGIONAL SCHOOL DISTRICT No. 6

35 WAMOGO ROAD
LITCHFIELD, CT 06759-3204
860.361.9033 ~ 860.361.9665 (FAX)
Serving the Towns of Warren, Morris and Goshen



October 15, 2018

Mr. Todd Bendsten
Business Manager
Thomaston Public Schools
185 Branch Road
Thomaston, CT 06787

Dear Mr. Bendsten,

As of October 1, 2018, the following students from Thomaston Public Schools were enrolled in the Agriculture Science and Technology Education Program at WAMOGO.

Name	Grade	Sending Town	2018-2019 Tuition
[REDACTED]	9	Thomaston	\$6,823.00
[REDACTED]	9	Thomaston	\$6,823.00
[REDACTED]	9	Thomaston	\$6,823.00
[REDACTED]	9	Thomaston	\$6,823.00
[REDACTED]	10	Thomaston	\$6,823.00
[REDACTED]	10	Thomaston	\$6,823.00
[REDACTED]	10	Thomaston	\$6,823.00
[REDACTED]	10	Thomaston	\$6,823.00
[REDACTED]	10	Thomaston	\$6,823.00
[REDACTED]	10	Thomaston	\$6,823.00
[REDACTED]	10	Thomaston	\$6,823.00
[REDACTED]	10	Thomaston	\$6,823.00
[REDACTED]	10	Thomaston	\$6,823.00
[REDACTED]	11	Thomaston	\$6,823.00
[REDACTED]	11	Thomaston	\$6,823.00
[REDACTED]	11	Thomaston	\$6,823.00
[REDACTED]	11	Thomaston	\$6,823.00
[REDACTED]	11	Thomaston	\$6,823.00
[REDACTED]	12	Thomaston	\$6,823.00
[REDACTED]	12	Thomaston	\$6,823.00
[REDACTED]	12	Thomaston	\$6,823.00
[REDACTED]	12	Thomaston	\$6,823.00
Thomaston Total Tuition			\$143,283.00

Partial Invoice

21 students x \$6,823 = \$143,283

50% balance due by November 22, 2018 = \$71,641.50

Our expectation is to issue a final invoice by January 15, 2019, with final payments due in February. Please contact Principal Loveland at 860-567-7410 with any questions.

Regards,



Sabin Loveland
Principal, Wamogo Regional High School



R. Christopher Brittain
Director, Wamogo ASTE

EXHIBIT T

Comparison of Charter, Magnet, Agricultural Science Centers, and Technical High Schools

By: John D. Moran, Principal Analyst
Andrew Bolger, Legislative Fellow
February 16, 2018 | 2018-R-0030

Issue

Compare the state laws and funding for four types of public schools: charter schools, interdistrict magnet schools, regional agricultural science and technology education centers (“agri-science centers”), and technical high schools. This report updates OLR Report [2014-R-0257](#).

Summary

In addition to regular public schools, Connecticut offers charter schools, interdistrict magnet schools, agri-science centers, and technical high schools. For each type of school, Table 1 compares the statutory provisions (and select regulations and state policies) governing approval, programs, students, special education, and transportation requirements. It also shows how each school is funded. The definition for each type follows.

1. A charter school is a public, nonsectarian, nonprofit school established under a charter that operates independently of any local or regional board of education; no member or employee of a governing council of a charter school may have a personal or financial interest in the assets, real or personal, of the school (charters are granted by the State Board of Education (SBE) or by a local board and SBE) ([CGS § 10-66aa](#)).



2. An interdistrict magnet school is a public school designed to promote racial, ethnic, and economic diversity that draws students from more than one school district, offers a special and high-quality curriculum, and requires students to attend at least half time (magnets are operated by school districts, regional education service centers (RESCs), or other entities) (CGS § 10-264(a)).
3. A regional agri-science center is usually embedded in an existing public high school and offers a curriculum of agricultural science and technology that may include vocational aquaculture and marine-related employment courses in addition to the standard high school curriculum. It serves a region of multiple local school districts (CGS §§ 10-64 to -66).
4. A technical high school (formally called a “technical education and career school”) is a state-operated, regional public high school that provides vocational education and hands-on experience in specific career areas in addition to the standard high school curriculum. Each school serves a region of multiple local school districts (CGS §§ 10-95 to -99g).

Table 1: Charter Schools, Interdistrict Magnet Schools, Agricultural Science and Technology Centers, and Technical Education and Career Schools: Comparison of Laws and FY 18 Funding

	<i>Charter Schools (CGS §§ 10-66aa to -66uu)</i>	<i>Interdistrict Magnet School (CGS §§ 10-264h to -264g)</i>	<i>Regional Agricultural Science and Technology Education Centers (CGS §§ 10-64 to -66)</i>	<i>Technical Education and Career Schools (formerly the Technical High Schools)* (CGS §§ 10-95 to -99g)</i>
Eligible Operators	<ul style="list-style-type: none"> Any not-for-profit organization that is tax exempt under IRS Code (Section 501(c)(3)) Public or independent institution of higher education Local or regional board of education Two or more boards of education acting cooperatively RESC (CGS § 10-66bb(b)) 	<ul style="list-style-type: none"> Local and regional boards of education RESC Cooperative arrangement between two or more school boards For a school that helps meet the goals of the 2013 settlement of the <i>Sheff v. O'Neill</i> school desegregation case (1) boards of trustees of the state's higher education constituent units or independent colleges or universities and (2) any other nonprofit corporation approved by the education commissioner (CGS §§ 10-264(a)) 	<ul style="list-style-type: none"> Local and regional boards of education (CGS § 10-64(a)) 	<ul style="list-style-type: none"> SBE authorized to establish and maintain the Technical Education and Career System (TECS)** TECS Board (separate from SBE) advises TECS (CGS § 10-95(a), as amended by PA 17-237, §§ 1 & 2, and PA 17-2, June Special Session (JSS), § 72)** For FY 18, SBE must hire a consultant to (1) help the TECS board develop a transition plan to become an independent agency and (2) provide recommendations on which services could be provided more efficiently through, or in conjunction with, another local or regional board of education or other entity SBE must submit a report on the transition plan and service efficiencies to the Education Committee by January 1, 2019 (PA 17-237, § 16) Board may enter into cooperative arrangements with local and regional boards of education, private occupational schools, institutions of higher education, job training agencies, and employers (CGS § 10-95(a))
Ineligible Operators	<ul style="list-style-type: none"> Nonpublic school Parent or group of parents providing home instruction (CGS § 10-66bb(b)) 	<ul style="list-style-type: none"> Regional agricultural science and technology centers Regional technical high schools Regional special education centers (CGS § 10-264(a)) 	None specified	None specified

* PA 17-237 changed the name of the system from the Technical High School System to the Technical Education and Career System.

** Under PA 17-237, in FY 20 (school year 2019-20) TECS becomes (1) independent of SBE and (2) a separate executive branch agency under an executive director appointed by the governor.

	<i>Charter Schools (CGS §§ 10-66aa to -66uu)</i>	<i>Interdistrict Magnet School (CGS §§ 10-264h to -264g)</i>	<i>Regional Agricultural Science and Technology Education Centers (CGS §§ 10-64 to -66)</i>	<i>Technical Education and Career Schools (formerly the Technical High Schools) (CGS §§ 10-95 to -99g)</i>
Program and Application Requirements	<p>Applications are to include a description of:</p> <ul style="list-style-type: none"> the mission, purpose, and any specialized focus of the proposed charter school; the community interest for the establishment of the charter school; the establishment of a school governance council which is responsible for oversight of school operations and includes (1) teachers and parents and guardians of students enrolled in the school (2) the local or regional board of education chairperson, or designee, provided no member or employee of the council has a personal or financial interest in the school; a financial plan for operation of the school; an educational program, instructional methodology, and services offered to students; the number of teachers and administrators expected to be employed; organization of the school in terms of ages or grades to be taught; total estimated enrollment; the means to assess student performance, including participation in mastery examinations; procedures for teacher evaluation and professional development; 	<ul style="list-style-type: none"> Support racial, ethnic, and economic diversity Offer a special and high quality curriculum Require students enrolled to attend at least half-time (<u>CGS § 10-264(a)</u>) See "Initial Approval Considerations," for details on what the commissioner must consider before approval 	<ul style="list-style-type: none"> Provide each enrolled student all the student's nonagricultural academic classes unless the board (1) on or before July 1, 1993, entered into a contract for shared-time arrangements with another board or (2) has a shared-time arrangement for its vocational aquaculture program (<u>CGS § 10-65b</u>) Shared-time arrangements mean students are enrolled in the agri-science centers part-time while attending school in their home district for nonagricultural courses (<u>CGS § 10-65b</u>) Establish and implement a five-year plan to increase racial and ethnic diversity at the agri-science center that reflects the racial and ethnic diversity of the center's region (<u>CGS § 10-65a(a)</u>) Operate on a 12-month-a-year basis to allow for occupational instruction and the supervision of student occupational experience programs (Conn. Agencies Reg., <u>§ 10-64-2</u>) 	<ul style="list-style-type: none"> Schools must offer full-time comprehensive secondary education, and may offer part-time and evening programs in vocational, technical, technological, and postsecondary education and training (<u>CGS § 10-95(b)</u> as amended by <u>PA 17-237, §§ 1 & 2</u> and <u>PA 17-2, JSS, §§ 72 & 73</u>) TECS board may authorize schools to offer trade programs for a maximum of five years, after which the board must evaluate programs (see below under "Evaluation") TECS board must base any decision to offer new trade programs on (1) employment demand for graduates, (2) cost of establishing the program, (3) availability of qualified instructors, (4) existence of similar programs at other educational institutions, and (5) student interest TECS board must create a process for employers, parents, students, teachers, and others to request consideration of a new trade program (<u>CGS § 10-95i (b) & (c)</u> as amended by <u>PA 17-237, § 60</u>)

Table 1 (Continued)

	<i>Charter Schools (CGS §§ 10-66aa to -66uu)</i>	<i>Interdistrict Magnet School (CGS §§ 10-264h to -264g)</i>	<i>Regional Agricultural Science and Technology Education Centers (CGS §§ 10-64 to -66)</i>	<i>Technical Education and Career Schools (formerly the Technical High Schools) (CGS §§ 10-95 to -99g)</i>
Program and Application Requirements (Continued)	<ul style="list-style-type: none"> • methods to encourage parent and guardian involvement; • a five-year maintenance and school operation plan; • the student recruitment plan that includes how the school will attract and retain various types of student populations, including those (1) with a history of low academic performance, (2) who receive free and reduced price lunches (FRPL), (3) with a history of behavioral and social problems, (4) who require special education, and (5) who are English language learners (ELL); • a plan to share learning practices and experiences with local or regional boards of education; and • in the case of a charter that plans to contract with a charter management organization, numerous required terms and conditions of the agreement (<u>CGS § 10-66bb(d)</u>). 		<ul style="list-style-type: none"> • Must provide students in all grades with a supervised, agricultural occupational-experience program in addition to regularly scheduled class activities (Conn. Agencies Reg., § <u>10-65-7</u>) • Agricultural classes must include time for lab, shop, and fieldwork (Conn. Agencies Reg., § <u>10-65-7</u>) 	
Approval Granted By	<ul style="list-style-type: none"> • For state charter school: State Board of Education (SBE) (<u>CGS § 10-66bb(f)</u>) • For local charter school: local board of education and SBE (<u>CGS § 10-66bb(e)</u>) 	<ul style="list-style-type: none"> • Education commissioner (<u>CGS § 10-264(b)</u>) 	<ul style="list-style-type: none"> • SBE for program, educational need, and area to be served in order to be eligible for state operating and construction grants (<u>CGS § 10-65(a)</u>) 	SBE (<u>CGS § 10-95(a)</u>)

Table 1 (Continued)

	<i>Charter Schools (CGS §§ 10-66aa to -66uu)</i>	<i>Interdistrict Magnet School (CGS §§ 10-264h to -264q)</i>	<i>Regional Agricultural Science and Technology Education Centers (CGS §§ 10-64 to -66)</i>	<i>Technical Education and Career Schools (formerly the Technical High Schools) (CGS §§ 10-95 to -99g)</i>
Initial Approval Considerations	<ul style="list-style-type: none"> • Effect of school on reducing racial, economic, or ethnic isolation in its region • Regional distribution of charter schools in the state • Potential for over-concentration of charter schools within a school district or contiguous districts • The state's efforts to close achievement gaps • Comments made at the required public hearing (<u>CGS § 10-66bb(c)</u>) 	<p>For annual operating grants:</p> <ul style="list-style-type: none"> • whether program is likely to increase student achievement; • whether program is likely to reduce racial, ethnic, and economic isolation; • percentage of enrollment from each participating district; • the school's proposed operating budget and sources of funding, including, for a magnet not operated by a local or regional board of education, the per pupil cost cannot exceed the maximum allowable amount as SDE annually determines; and • for <i>Sheff</i> magnets, whether the school meets the desegregation obligations pursuant to the <i>Sheff</i> court decision and any stipulation or order (<u>CGS § 10-264(b)</u>). 	<ul style="list-style-type: none"> • Must be established through agreements with other boards of education to create regional agri-science center within a regular public school system • Must create an agri-science consulting committee to advise host board (committee is advisory only) • Consulting committee must include at least two representatives with competent agricultural or aquacultural knowledge appointed by each participating board (<u>CGS § 10-64(a)</u>) 	None specified

Table 1 (Continued)

	<i>Charter Schools (CGS §§ 10-66aa to -66uu)</i>	<i>Interdistrict Magnet School (CGS §§ 10-264h to -264g)</i>	<i>Regional Agricultural Science and Technology Education Centers (CGS §§ 10-64 to -66)</i>	<i>Technical Education and Career Schools (formerly the Technical High Schools) (CGS §§ 10-95 to -99g)</i>
Additional Approval Factors (Applicable to schools meeting initial considerations)	<p>SBE must give preference to applicant schools:</p> <ul style="list-style-type: none"> • serving children who live in priority districts or in districts where 75% or more of the students are members of racial or ethnic minorities; • whose primary purpose is serving students who (1) have a history of low academic performance, (2) receive FRPL, (3) have a history of behavioral and social problems, (4) are special education students, (5) are ELL students, or (6) make up single-gender student bodies; • whose primary purpose is to improve the performance of an existing low-performing school; • that demonstrate credible, specific strategies to attract and retain low performing or ELL students; and • state charters also receive preference if (1) located at work sites or (2) with applicants that are higher education institutions (CGS § 10-66bb(c)). 	None	None	None

Table 1 (Continued)

	<i>Charter Schools (CGS §§ 10-66aa to -66uu)</i>	<i>Interdistrict Magnet School (CGS §§ 10-264h to -264q)</i>	<i>Regional Agricultural Science and Technology Education Centers (CGS §§ 10-64 to -66)</i>	<i>Technical Education and Career Schools (formerly the Technical High Schools) (CGS §§ 10-95 to -99g)</i>
Approval Process	<ul style="list-style-type: none"> The level of approval depends on the type of charter (1) SBE review for state charter schools and (2) local board of education and SBE for local charters Public hearings must be held in the district where the school will be located For state charter schools, SBE must solicit and review comments from the board of education for the district where the school will be located and from contiguous districts For local charter schools, the local board must survey teachers and parents in the district to determine if there is enough interest SBE must vote on a state charter application within 90 days of receiving it; a local board must vote within 75 days of receiving a local charter application and forward an approved application to SBE, which must vote on it within 60 days SBE approval must be by majority vote and may be subject to conditions Charters may delay opening for up to one school year for the applicant to prepare (CGS § 10-66bb(e)&(f)) 	<ul style="list-style-type: none"> The application must be approved by the education commissioner (CGS § 10-264h(b)) 	<ul style="list-style-type: none"> Not specified in statute 	<ul style="list-style-type: none"> Not applicable (but see "Program Requirements" above for approval process for new trade programs)
Approval Limits	None specified in statute	<ul style="list-style-type: none"> None specified in statute (previously, there was a statutory moratorium on non-Sheff magnets; the moratorium was lifted when the commissioner filed a comprehensive statewide magnet school plan with the Appropriations and Education committees on December 12, 2016) (CGS § 10-264(b)) 	None specified in statute	None specified in statute

Table 1 (Continued)

	<p><i>Charter Schools</i> (CGS §§ 10-66aa to -66uu)</p>	<p><i>Interdistrict Magnet School</i> (CGS §§ 10-264h to -264g)</p>	<p><i>Regional Agricultural Science and Technology Education Centers</i> (CGS §§ 10-64 to -66)</p>	<p><i>Technical Education and Career Schools</i> (formerly the Technical High Schools) (CGS §§ 10-95 to -99g)</p>
<p>Enrollment Minimums or Limits</p>	<ul style="list-style-type: none"> • Each school may enroll no more than the lesser of <ul style="list-style-type: none"> ○ 250 students or, if a K-8 school, no more than 300 or ○ 25% of the enrollment of the school district where it is located • If SBE finds a state charter school has a demonstrated record of achievement, it must waive the enrollment limits (CGS § 10-66bb(c)) 	<ul style="list-style-type: none"> • For all magnets, no more than 75% of enrolled students may come from a participating district • Enrollment standards for desegregation (i.e., reduced-isolation settings) differ for <i>Sheff</i> and non-<i>Sheff</i> magnet schools: <ul style="list-style-type: none"> ○ <i>Sheff</i> (greater Hartford area) schools must maintain a minority student enrollment of no more than 75% and a non-minority enrollment of at least 25% ○ Non-<i>Sheff</i> magnets must conform with the reduced-isolation setting standards authorized under PA 17-172 and set by the commissioner, which allow for minority student enrollment of no more than 80% and at least 20% non-minority (CGS § 10-264(b)(2), PA 17-172, and the commissioner's reduced-isolation standards) • Commissioner's reduced-isolation standards also allow for: <ul style="list-style-type: none"> ○ up to 1% variance for the residency or reduced-isolation standard if she approves a plan to bring the school into compliance, and ○ the commissioner to waive either standard if she finds evidence of other types of diversity (e.g., socioeconomic, special education, and ELLs) or other factors (PA 17-172 and the commissioner's reduced isolation standards) • Private school students enroll in public part-time programs so long as they (1) make up no more than 5% of the magnet school's full-time equivalent enrollment and (2) are not counted for purposes of the state magnet school transportation grant (CGS § 10-264(i)) 	<ul style="list-style-type: none"> • Agreements with participating boards may address admission policy and the number of seats available for acceptance (CGS § 10-64(a)) • Each board of education without its own agri-science center must designate one or more SBE-approved centers that their students may attend (CGS § 10-64(d)) • Each board not hosting an agri-science center must provide enrollment opportunities equal to at least (1) the number of students stated in the written agreement, if one exists or (2) the average number of students the board enrolled at the center during the three previous school years, in addition to, for ninth grade, the number of ninth grade students stated in the agreement, if one exists, or the average number enrolled in each designated center over the three previous school years (CGS § 10-65(b)) • No enrollment limits or minimums for boards that operate an agri-science center • School boards that provide opportunities for students to enroll in more than one center in the 2007-08 school year must continue to do so in the numbers required by law (CGS § 10-65(b)) 	<p>None</p>

Table 1 (Continued)

	<i>Charter Schools (CGS §§ 10-66aa to -66uu)</i>	<i>Interdistrict Magnet School (CGS §§ 10-264h to -264g)</i>	<i>Regional Agricultural Science and Technology Education Centers (CGS §§ 10-64 to -66)</i>	<i>Technical Education and Career Schools (formerly the Technical High Schools) (CGS §§ 10-95 to -99g)</i>
Student Admission Criteria	<p><i>Required</i></p> <ul style="list-style-type: none"> • Provide open access on a space-available basis • If applicants exceed space available, must distribute places by lottery • Promote a diverse student body • Not discriminate on the basis of race, color, sex, religion, national origin, sexual orientation, disability, or English proficiency (CGS § 10-66bb(d)) • May not recruit for purpose of interscholastic athletic competition (CGS § 10-220d) <p><i>Optional</i></p> <ul style="list-style-type: none"> • May limit enrollment to a particular grade level or specialized educational focus • May give preference to siblings if applicants exceed space available (CGS § 10-66bb(d)) <p><i>Waiver</i></p> <ul style="list-style-type: none"> • May seek enrollment lottery waiver if (1) school's primary purpose is to serve student populations with behavioral or social difficulties, needing special education, who are ELL, or of a single gender or (2) a local charter is established at a school among the lowest 5% when all schools ranked by school performance index (CGS § 10-66bb(i)) 	<ul style="list-style-type: none"> • May not recruit for purpose of interscholastic athletic competition (CGS § 10-220d) • After accommodating students from participating districts according to an approved enrollment agreement, may enroll any interested student on a space-available basis by lottery • In enrolling individual students directly, must give preference to a student from a district not participating in a magnet school or the Open Choice interdistrict attendance program (CGS § 10-264(i)) 	<ul style="list-style-type: none"> • Applicants must: (1) have successfully completed eighth grade for ninth grade admission, (2) indicated an interest in agriculture as a career and agree to participate in a supervised, occupational experience program (Conn. Agencies Reg., § 10-65-6) • Agreements with sending districts may specify admission policy and the number of seats available for acceptance (CGS § 10-64(a)) • Agri-science center staff must recommend students for acceptance into the program (Conn. Agencies Reg., § 10-65-6) • Any student denied admission must be given opportunity to ask for review of his or her case before a review committee (Conn. Agencies Reg., § 10-65-6) • May not recruit for the purpose of interscholastic athletic competition (CGS § 10-220d) 	<ul style="list-style-type: none"> • <u>Admissions policy</u> requires eighth grade students to submit: <ol style="list-style-type: none"> 1. most recent Smarter Balanced Report, 2. 7th and 8th grade transcripts, 3. 7th and 8th grade attendance records, 4. written statement of why he or she wants to attend, and 5. 7th and 8th discipline record • Each placed on a ranked list based on score aggregated from each requirement • Application considered final when other documents added including records that show (1) eighth grade completed and (2) no serious disciplinary infractions (<u>TECS admissions policy</u>) • TECS board may recommend student admissions policies to the superintendent (CGS § 10-95(b) as amended by PA 17-237, § 1) • SDE must review the admissions policy regarding (1) enrollment for (a) special education students and students with disabilities, (b) minority students, and (2) the use of placement tests and wait lists in the admissions process (review must be submitted to the Education Committee by January 15, 2018) (PA 17-237, § 12 and PA 17-2, JSS, § 75) • May not recruit for the purpose of interscholastic athletic competition (CGS § 10-220d)

Table 1 (Continued)

	<i>Charter Schools (CGS §§ 10-66aa to -66uu)</i>	<i>Interdistrict Magnet School (CGS §§ 10-264h to -264g)</i>	<i>Regional Agricultural Science and Technology Education Centers (CGS §§ 10-64 to -66)</i>	<i>Technical Education and Career Schools (formerly the Technical High Schools) (CGS §§ 10-95 to -99g)</i>
Special Education	<p><i>State charters</i></p> <ul style="list-style-type: none"> The school district where the student lives must hold the planning and placement team meeting The district must invite representatives of the charter school to participate in the meeting On a quarterly basis, the district must pay the charter school the difference between the reasonable cost of education for the student and the per-student amount the school receives from state, federal, local, or private grants The charter school is responsible for ensuring the student receives services mandated by his or her individualized education program (IEP) (CGS § 10-66ee(d)) <p><i>Local charters</i></p> <ul style="list-style-type: none"> The local district must pay the local charter the amount in the charter document for reasonable special education costs per student (CGS § 10-66ee(b)) 	<p>Same as state charter school requirements, except:</p> <ul style="list-style-type: none"> Payments from districts not required to be quarterly Magnet school only responsible for providing special education services if student attends magnet program full-time (CGS § 10-264(h)) 	<ul style="list-style-type: none"> Agri-science centers may charge tuition to a sending district for educating a student receiving special education services, as follows: the cost of the services minus any state grants the center receives per student (sending district may seek reimbursement from the state for the tuition costs under existing special education law) (CGS § 10-65(b)) 	<ul style="list-style-type: none"> SBE provides and pays for the services, which are the same that a local or regional school district must provide If a student's planning and placement team determines that he or she requires services that preclude him or her from participating in the technical high school vocational education program, the student must be referred to the local board of education in the town where the student lives for development of an individualized education program at the expense of the local or regional board of education (CGS § 10-76g as amended by PA 17-237, § 54)
Student Transportation	<ul style="list-style-type: none"> District where the charter school is located must provide transportation to the charter school for students living in the district unless the charter school makes other arrangements District has the option of providing transportation to its students attending charter schools outside the district (CGS § 10-66ee(f)) 	<ul style="list-style-type: none"> Provided by the participating districts Same kind as provided to children enrolled in other public schools (CGS § 10-264(f)) 	<ul style="list-style-type: none"> Sending school boards must pay the cost of transportation from high school to an agri-science center school located in or outside the district for any resident student under age 21 who has not graduated (CGS § 10-64(d)). 	<ul style="list-style-type: none"> Sending school boards must provide transportation for any resident student under age 21 who has not graduated from high school to a technical education and career school located in or outside the district (CGS § 10-97(a))

Table 1 (Continued)

	<i>Charter Schools (CGS §§ 10-66aa to -66uu)</i>	<i>Interdistrict Magnet School (CGS §§ 10-264h to -264g)</i>	<i>Regional Agricultural Science and Technology Education Centers (CGS §§ 10-64 to -66)</i>	<i>Technical Education and Career Schools (formerly the Technical High Schools) (CGS §§ 10-95 to -99g)</i>
<p>School Transportation Funding</p> <p><i>(NOTE: Since FY 17, funding for school transportation has been eliminated from the state budget, except for magnet school transportation under CGS § 10-264i. The entries in this row show the statutory language, which has not been changed despite the cuts. In the event funding is restored, the statutory language would govern the funds.)</i></p>	<ul style="list-style-type: none"> • Provided to local and regional school districts through the normal school transportation grant program for charter school students transported within the district where the charter school is located (mandated) and out-of-district (voluntary) (CGS § 10-66ee(f))*** 	<ul style="list-style-type: none"> • Provided through the normal school transportation grant program for students transported within the district (CGS § 10-264(f))*** • Provided through a separate state grant for students transported out-of-district (expenditures over the state grant limits may be submitted for reimbursement in the following year in the normal school transportation grant) up to \$1,300 per student (CGS § 10-264i) 	<ul style="list-style-type: none"> • Sending districts are eligible for state reimbursement of reasonable transportation costs at its regular rate (0 to 60% depending on wealth) plus an additional 20 percentage points for any costs exceeding \$800 per pupil, per year (CGS § 10-64(d))*** • Education commissioner may reimburse districts and RESCs up to \$2,000 per student for the cost of transporting Hartford students to centers outside Hartford to help meet <i>Sheff</i> goals (GCS § 10-266m)*** • Sending districts are not required to spend more than \$6,000 per student to transport to an agri-science center (CGS § 10-97(e))*** 	<ul style="list-style-type: none"> • Sending districts are eligible for state reimbursement of reasonable transportation costs at its regular rate (0 to 60% depending on wealth) plus 20 percentage points for any costs exceeding \$800 per pupil, per year (CGS §§ 10-266m and 10-97(a) and (c))*** • If the cost of providing out-of-town transportation for any student exceeds \$200 per year, the town may opt to maintain the student in the town where he or she attends the technical high school (CGS § 10-97(a)) *** • Education commissioner may reimburse local and regional boards of education and RESCs up to \$2,000 per student for transporting (1) Hartford students to technical high schools outside Hartford or (2) out-of-district students to technical schools in Hartford to help meet <i>Sheff</i> goals (GCS § 10-266m) *** • Sending districts are not required to spend more than \$6,000 per student for transportation to a technical high school (CGS § 10-97(e))***
<p>***Funds currently eliminated from the state budget, but statutory language remains in place.</p>				

Table 1 (Continued)

	<i>Charter Schools (CGS §§ 10-66aa to -66uu)</i>	<i>Interdistrict Magnet School (CGS §§ 10-264h to -264g)</i>	<i>Regional Agricultural Science and Technology Education Centers (CGS §§ 10-64 to -66)</i>	<i>Technical Education and Career Schools (formerly the Technical High Schools) (CGS §§ 10-95 to -99g)</i>
School Construction Funding	<p><i>State charters</i></p> <ul style="list-style-type: none"> • Eligible for state grants for construction and capital improvements or to repay debts for capital projects • Grants of \$250,000 or more must be repaid if the charter school ceases to use the building for education purposes before the bonds are retired (CGS § 10-66hh) • \$5 million in new bond authorization for grants must be effective by July 1, 2016, not exceeding an aggregate of \$35,000,000 to be used for the grants mentioned above (CGS § 10-66jj) • Within appropriations, the state may provide a grant of up to \$75,000 for start-up costs for any new charter school that assists the state in meeting the goals of the 2013 <i>Sheff v. O'Neill</i> school desegregation court stipulation and order (CGS § 10-66ee(l)) <p><i>Local charters</i></p> <ul style="list-style-type: none"> • While there is no explicit local charter school construction law provision, grants presumably fall under regular local school district construction provisions (CGS § 10-283) • Grants exist for start-up costs of up to \$500,000 for newly established local charters (CGS § 10-66nn) 	<ul style="list-style-type: none"> • Must comply with regular school construction grant requirements, including General Assembly approval as part of the annual school construction priority list • As of July 1, 2011 eligible for 80% funding of construction projects through the school construction grant program (before July 1, 2011 the reimbursement rate was 95%) (CGS § 10-264h(a)) • Within appropriations, discretionary grant of up to \$75,000 for start-up costs for any new magnet school that assists the state in meeting the goals of the 2013 <i>Sheff</i> court stipulation (CGS § 10-264(c)) 	<ul style="list-style-type: none"> • For projects filed on or after July 1, 2011, reimbursement is 80% of eligible costs of construction and equipment for the center through the state's school construction grant program (before July 1, 2011 the reimbursement rate was 95%) (CGS §§ 10-286(a)(4) and 10-65(a)) 	<ul style="list-style-type: none"> • State pays 100% of the cost of school capital projects through general obligation bonds (since they are state schools and not part of a local school district, there is no local share of the costs) • School projects must be included on the annual school construction priority list in the same manner as local school projects (CGS § 10-283b)

Table 1 (Continued)

	<p><i>Charter Schools</i> (CGS §§ 10-66aa to -66uu)</p>	<p><i>Interdistrict Magnet School</i> (CGS §§ 10-264h to -264q)</p>	<p><i>Regional Agricultural Science and Technology Education Centers</i> (CGS §§ 10-64 to -66)</p>	<p><i>Technical Education and Career Schools</i> (formerly the <i>Technical High Schools</i>) (CGS §§ 10-95 to -99g)</p>
<p>Operating Expense Funding</p>	<p><i>State charters</i></p> <ul style="list-style-type: none"> State charter schools receive a state grant of \$11,000 per student per year for FY 15 and for each following fiscal year (This amount will increase to \$11,250 for FY19 and the following years thereafter) The state pays no Education Cost Sharing (ECS) grants for students attending state charter schools, either to the school or to the student's home district At the end of any year, a charter school may (1) use up to 10% of any unspent grant funds for expenses in the following year and (2) deposit up to 5% of unexpended funds in a reserve fund to finance a specific capital or equipment purchase; school must return any other unspent funds to the state (CGS § 10-66ee(a),(d)&(e) and PA 17-2, JSS, § 583) <p><i>Local charters</i></p> <ul style="list-style-type: none"> Local charters receive a state grant of up to \$3,000 per student, within available appropriations The local board of education must pay a local charter school the amount specified in the school's charter (which must be approved by the local board of education), including reasonable costs for special education Students enrolled in a local charter school are counted in the ECS formula in the district in which they reside (CGS § 10-66ee(a),(b)&(c)) 	<ul style="list-style-type: none"> State operating grants depend on whether or not (1) a school is run by a local school district ("host magnet") or a regional education service center or other entity (RESC magnet) and (2) whether it helps the state achieve the goals of the 2013 <i>Sheff</i> stipulation ("<i>Sheff</i> magnet") or not ("<i>non-Sheff</i> magnet"). Per-student grants for FYs 18 and 19 are: <ul style="list-style-type: none"> host magnet generally: \$7,085 for each student from outside the host district and \$3,000 for each student from the host district; <i>Sheff</i> host magnet (hosted by Hartford or other <i>Sheff</i> district): \$13,054 for each student from outside host district and \$3,000 for each student from within the district; non-<i>Sheff</i> RESC magnet with 55% or less enrollment from a single town: \$7,900 per student; non-<i>Sheff</i> RESC magnet with 55% or more of enrollment from a single town: \$7,085 for each student from outside the dominant district and \$3,000 for each student from the dominant district (two of these magnets receive higher grants (CGS § 10-264l(c)); and RESC-run magnet: \$10,443 per student for a school enrolling less than 60% of its students from Hartford or for a school enrolling less than 50% of its students from Hartford, \$7,900 for half of the number of non-Hartford students enrolled over 50% of the total student enrollment with \$10,443 for the remaining students (PA 17-2, JSS, § 585(c)(3)(D)). Part-time magnet school programs receive 65% of the above amounts if they operate at 	<p><i>Operating Grants and Tuition</i></p> <ul style="list-style-type: none"> State operating grant of \$3,200 per student State law allows operating board to charge sending districts no more than \$6,822.80 in tuition per student attending an agri-science center Operating board can charge tuition on a pro rata basis for shared-time students (CGS § 10-65(a) and (b)) For ECS, agri-science students are counted as attending school in their home districts <p><i>Supplemental Grants</i></p> <ul style="list-style-type: none"> \$500 supplemental per-student grant, within available appropriations, for centers with more than 150 out-of-district students A gradually decreasing phase-out grant for four successive years for centers that no longer qualify for the \$500 grants A \$60 per-student grant for centers that are ineligible for the \$500 grants or phase-out grants (CGS § 10-65(c)) Any remaining funds after the above distributions: an additional \$100 per-student grant for all centers Any remaining funds after the above: proportionately distributed to districts operating centers with more than 150 out-of-district students based on the ratio of the number of out-of-district students in excess of 150 in each center to the total number of students in excess of 150 in all centers in the state (CGS § 10-65(d)) <p><i>Nonsupplant Requirement</i></p> <ul style="list-style-type: none"> For FY 13 and each following FY, 	<ul style="list-style-type: none"> School operations are funded by the state through the regular state budget process Preparatory and supplemental programs, including apprenticeship programs, are funded from the nonlapsing Vocational Education Extension Fund, which includes all proceeds from operating the programs plus rental fees for technical education and career facilities (CGS § 10-95e) Technical high school students are not counted for purposes of ECS grants and local districts receive no ECS grants for these students

Table 1 (Continued)

	<i>Charter Schools</i> <i>(CGS §§ 10-66aa to -66uu)</i>	<i>Interdistrict Magnet School</i> <i>(CGS §§ 10-264h to -264q)</i>	<i>Regional Agricultural Science and Technology Education Centers</i> <i>(CGS §§ 10-64 to -66)</i>	<i>Technical Education and Career Schools</i> <i>(formerly the Technical High Schools)</i> <i>(CGS §§ 10-95 to -99g)</i>
Operating Expense Funding (continued)		least half-time (CGS § 10-264(c)). <ul style="list-style-type: none"> • For FY 18, the commissioner may limit payment to a magnet school, subject to certain planned enrollment increases, to an amount equal to the FY 13, FY 15, and FY 16 enrollment levels, whichever is lower. • For FY 19, the commissioner may limit payment to a magnet school, subject to certain planned enrollment increases, to an amount equal to the FY 13, FY 15, FY 16, and FY 17 enrollment levels, whichever is lower (PA 17-2, JSS. § 585) • Many magnet schools receive per-student tuition from sending districts. • Tuition varies based on the state grants the schools receive, but cannot exceed the cost of educating the student minus any state grants to the magnet school (CGS § 10-264(k)) • For ECS grants, magnet school students are counted as attending school in their home districts (CGS § 10-262f(22)) 	any increase in state aid over the previous year cannot be used to supplant local education funding (CGS § 10-65(f))	

Table 1 (Continued)

	<i>Charter Schools (CGS §§ 10-66aa to -66uu)</i>	<i>Interdistrict Magnet School (CGS §§ 10-264h to -264g)</i>	<i>Regional Agricultural Science and Technology Education Centers (CGS §§ 10-64 to -66)</i>	<i>Technical Education and Career Schools (formerly the Technical High Schools) (CGS §§ 10-95 to -99g)</i>
Evaluation	<ul style="list-style-type: none"> Charters must be renewed every five years (CGS § 10-66bb(e)&(f)) After receiving an application for a charter renewal, SBE may commission an independent appraisal of the school's performance, whose results SBE must then consider in determining whether to renew the charter SBE or the education commissioner may deny renewal, place on probation, or revoke a charter if it finds the school has failed to: (1) adequately demonstrate student progress, (2) manage its public funds in a prudent or legal manner (3) comply with the terms of the charter, applicable laws and regulations Renewal can also be denied if (1) the school fails to attract and retain students (a) with a history of low academic performance or behavioral or social problems, (b) eligible for FRPL, (c) eligible for special education, or (d) who are ELL or (2) the governing council has not been responsible for school operations or has not provided evidence that the council has initiated substantive communication with the local or regional board of education A school can also be placed on probation if it fails to (a) make measurable progress in reducing racial, ethnic, and economic isolation; (b) maintain its nonsectarian status; or (c) have a governing council that is able to provide effective leadership A charter can also be revoked if the school fails to comply with the terms of its probation, including failure to file or implement a corrective action plan (CGS § 10-66bb(q),(h) & (i)) 	<ul style="list-style-type: none"> The education commissioner may conduct a comprehensive review of a magnet school's operating budget to verify its tuition rate RESC-operated magnet schools must submit an annual financial audit to the education commissioner Each year, the commissioner must randomly select one magnet school for a comprehensive financial audit by an auditor the commissioner selects (CGS § 10-264(n)) 	<ul style="list-style-type: none"> Operating board must conduct an annual study to determine the educational and vocational activities of agri-science center graduates five years after graduation and submit study to SBE (CGS § 10-65a(b)) Consulting committee must meet at least two times a year to review and assist in evaluating the center (Conn. Agencies Reg., § 10-64-1) 	<ul style="list-style-type: none"> TECS must establish specific achievement goals for TECS students and measure school performance based on quantifiable measures including 10th or 11th grade mastery test performance, trade-related assessment tests, and drop-out and graduation rates (CGS § 10-95(e) as amended by PA 17-237, §§ 1&2 (the act changes this requirement starting in FY20)) TECS must, beginning in 2020, evaluate each school trade program every five years on the basis of (1) projected employment demand, including employment of graduates in the preceding five years; (2) availability of qualified instructors; (3) existence of similar programs at other educational institutions; (4) student interest; and (5) technological changes. The TECS board must also consider geographic differences that may make a trade program feasible at one school but not another and consult the craft committees for the program (CGS § 10-95i (b)). Every five years, TECS must adopt a long-range plan of priorities and goals for TECS (CGS § 10-95i (a)) TECS superintendent must report at an annual hearing held by the Education, Higher Education, and Labor committees on (1) how the system curriculum is incorporating workforce skills that will be needed over the next 30 years, as identified by the labor commissioner; (2) the employment status of system graduates; (3) the adequacy of TECS resources; (4) recommendations to TECS board; (5) information regarding staffing at each TECS school for the current year; and (6) information regarding the

Table 1 (Continued)

	<p><i>Charter Schools</i> <i>(CGS §§ 10-66aa to -66uu)</i></p>	<p><i>Interdistrict Magnet School</i> <i>(CGS §§ 10-264h to -264q)</i></p>	<p><i>Regional Agricultural Science and Technology Education Centers</i> <i>(CGS §§ 10-64 to -66)</i></p>	<p><i>Technical Education and Career Schools</i> <i>(formerly the Technical High Schools)</i> <i>(CGS §§ 10-95 to -99g)</i></p>
<p>Evaluation (continued)</p>	<ul style="list-style-type: none"> Each year, the commissioner must randomly select one charter school for a comprehensive financial audit by an auditor the commissioner selects (CGS § 10-66ll) 			<p>transition process of TECS to an independent agency (CGS § 10-95h as amended by PA 17-237, § 11)</p> <ul style="list-style-type: none"> The education commissioner and other specified commissioners, in consultation with the TECS superintendent must evaluate and, as necessary, recommend improvements to the TECS certification and degree programs to ensure they meet the employment needs of business and industry (CGS § 4-124z(a)) SBE must prepare a biennial report to the Education Committee that includes (1) applicant and student demographic information, (2) an assessment of student outcomes including completion rates and postsecondary education, (3) enrollment capacity and projected capacity, and (4) an analysis of enrollment including the likelihood of increases or decreases. SBE must provide opportunity for public comment when preparing the report (CGS § 10-95k) SDE must evaluate and report to the Education Committee by October 1, 2018, whether existing TECS standards are: (1) aligned with professional certification requirements and (2) uniform across the system (PA 17-237, § 14)

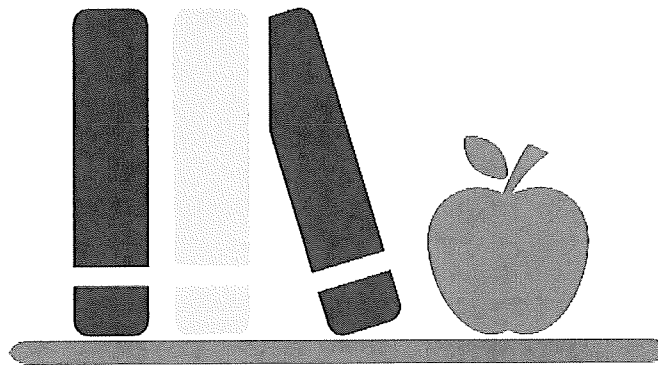
Website links:

Technical High School System admissions policy/application:

<http://www.cttech.org/assets/uploads/files/admissions/20172018/application%20class%20of%202022final.pdf>

JM/AB:cmg

EXHIBIT U



Acts Affecting Education

By: John Moran, Principal Analyst
Jessica Callahan, Legislative Analyst I
June 18, 2018 | 2018-R-0143



Notice to Readers

This report provides summaries of new laws (Public Acts and Special Acts) affecting education enacted during the 2018 regular session. OLR's other Acts Affecting reports are, or will soon be, available on OLR's website: <https://www.cga.ct.gov/olr/actsaffecting.asp>.

Each summary indicates the Public Act (PA) or Special Act (SA) number. Not all provisions of the acts are included. The report does not include vetoed acts unless the veto was overridden.

Complete summaries of Public Acts are, or will soon be, available on OLR's website: <https://www.cga.ct.gov/olr/olrsums.asp>. Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library, House Clerk's Office, or General Assembly's website: <http://www.cga.ct.gov>.

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Curriculum and Instruction

Holocaust and Genocide Education

A new law adds Holocaust and genocide education and awareness to the required program of instruction for public schools and requires all local and regional boards of education (“boards of education”) to include this topic in their social studies curriculum (PA 18-24, effective July 1, 2018).

Opioid Use Instruction Requirement

A new law requires public schools to provide instruction on opioid use and related disorders as part of the state’s required program of instruction (PA 18-182, § 2, effective July 1, 2018).

Early Childhood Education

After School Report

Under a new law, the After School Committee must report legislative recommendations to expand, finance, and improve summer and after school programs to the Appropriations and Education committees by February 1, 2019 (PA 18-182, § 6, effective July 1, 2018).

Early Childhood Staff Qualifications

A new law delays the implementation of heightened staff qualifications for state-funded school readiness programs. The heightened education requirements for school readiness staff are set to take place in two phases. The new law delays the start of the first phase from July 1, 2018 to July 1, 2020, and the second phase from July 1, 2021 to July 1, 2023.

The law also requires the Office of Early Childhood (OEC) to complete an analysis of the early childhood staff requirements and submit it, with recommendations, to the Education Committee by January 1, 2020 (PA 18-123, effective July 1, 2018, except the OEC analysis provision is effective upon passage).

OEC Funds for Service-Delivery Pilots and Program Evaluation

A new law allows OEC to use up to 2% of the appropriations for school readiness and four child care programs for, among other things, service-delivery pilots and program evaluation. School readiness is the state supported preschool program with an educational component (PA 18-184, §§ 2-7, effective July 1, 2018).

School Readiness Grant Funds Allowed for Evaluation and Administration

The legislature changed the minimum amount of a state school readiness grant that a town can use for program coordination, evaluation, and administration from \$25,000 to 5% of the town's total grant while maintaining the existing \$75,000 cap ([PA 18-172](#), § 5, effective July 1, 2018).

Grants and Funding

Magnet School Transportation Grants

A new law extends the education commissioner's authority to give (1) *Sheff* magnet school transportation grants through FY 19 and (2) supplemental *Sheff* magnet school transportation grants through FY 18. The authority to award each grant expired on June 30, 2017 ([PA 18-51](#), § 3, effective July 1, 2018).

Per-Student Grant for Vocational Agricultural Centers

The legislature increased, from \$3,200 to \$4,200, the annual state grant, within available appropriations, for each student attending a regional agricultural science and technology center. These regional centers, which are typically embedded in a local high school, provide high school students with an agricultural education in addition to the comprehensive high school education ([PA 18-81](#), § 52, effective July 1, 2018).

Remaining Education Cost Sharing (ECS) Aid to Towns that Received Displaced Students

The legislature enacted a new law that, after the distribution of FY 19 ECS grants, requires any remaining funds be distributed to municipalities whose school districts received students during FY 18 who were displaced by Hurricane Maria ([PA 18-81](#), § 37, effective July 1, 2018).

School Readiness Grants

Beginning in FY 20, a new law removes the fixed figure \$8,927 per-child cost in the school readiness program and instead allows the OEC commissioner to set rates (per-child cost) for the program. Also, the same new law adds transition to preschool and parental engagement and family supports through the two-generational initiative to an existing list of approved ways the OEC commissioner can use unexpended school readiness funds ([PA 18-184](#), §§ 8 & 9, effective July 1, 2018).

School Security Grants

The General Assembly enacted a law that authorizes the State Bond Commission to issue an additional \$10 million in school security grants for public and private schools. The same law specifies that the school construction emergency grant program can provide grants for up to \$5 million for multimedia interoperable communication systems (PA 18-178, §§ 18 & 26, effective July 1, 2018).

Tobacco Settlement Fund (TSF) Disbursements to the Smart Start Competitive Operating Grant Account

The budget act eliminates the required disbursement from the TSF to the Smart Start Competitive Operating Grant Account, which prior law set at \$10 million a year for FYs 20 through 25 (PA 18-81, §§ 60 & 61, effective upon passage).

Youth Bureau Grant Eligibility

A new law extends youth service bureau grant eligibility to bureaus that applied for grants in FY 18 (prior law covered bureaus that applied for grants in FY 17) (PA 18-182, § 1, July 1, 2018).

Health and Safety

Adult Education Teachers and Background Checks

The legislature enacted a new law exempting from criminal history and child abuse and registry background checks any person a board of education employs as a noncredit adult class or adult education activity teacher, provided the person is not required to hold a teaching certificate for the position (PA 18-51, § 9, effective July 1, 2018).

Exclusionary Time Out

A new law creates exclusionary time out as a new way (separate and distinct from seclusion) of removing a child from a classroom. It is defined as a temporary, continuously monitored separation of a student in a non-locked setting away from an ongoing activity for the purpose of calming or deescalating such student's behavior. By law, seclusion is the involuntary confinement of a student in a room that the student is prevented from leaving. The new law requires each board of education to establish, by January 1, 2019, an exclusionary time out policy that meets the law's standards (PA 18-51, § 4, effective July 1, 2018).

Fingerprinting and Criminal History Check Task Force

A new law establishes a task force to study and make recommendations on the state's system for fingerprinting and processing criminal history records for employees, job applicants, and volunteers of boards of education and other education employers. The report and recommendations must be submitted by January 1, 2019, to the Education and Public Safety and Security committees (SA 18-25, effective upon passage).

Life-Threatening Food Allergies in Schools

This session, the legislature made several changes to the laws addressing food allergies in schools. A new law allows any student with a medically diagnosed life-threatening allergic condition to possess and self-administer his or her medication. It requires the State Department of Education (SDE) to adopt implementing regulations. The act requires SDE, in consultation with DPH, to, among other things, revise, review, and update its guidelines for managing students with life-threatening food allergies and glycogen storage disease. It additionally requires SDE to update its health and physical education curriculum standards and apply for external funding to raise public awareness about food allergies (PA 18-185, §§ 1-2 & 4-6, effective July 1, 2018, except the provisions relating to SDE's curriculum revisions and funding applications take effect upon passage).

Oral Health Assessments

A new law requires boards of education to request that students have an oral health assessment prior to public school enrollment, in grade six or seven, and in grade nine or 10. It establishes related requirements on providers authorized to perform the assessments, parental consent, assessment forms, notification, and records access.

Among other things, the new law (1) prohibits a school board from denying a child's public school attendance for not getting an assessment; (2) requires appropriate school health personnel to review the assessment results and, if further attention is needed, requires the superintendent to notify the parents or guardians and make reasonable efforts to ensure that the attention is provided; and (3) requires school boards to provide prior notice to students' parents or guardians if the board hosts a free oral health assessment (PA 18-168, §§ 80 & 81, as amended by PA 18-169, § 44, effective July 1, 2018).

School-Based Health Center (SBHC) Advisory Committee

A new law adds three members to the SBHC Advisory Committee, increasing its membership to 20. The act adds to the committee the Department of Children and Families (DCF) commissioner or her designee. It also adds two members, appointed by the public health commissioner, from municipalities that operate SBHCs — one from a municipality with a population of at least 50,000 but under 100,000, and the other from a municipality with a population of at least 100,000 (PA 18-168, § 5, effective October 1, 2018).

School Bus Driver Training for Allergic Reactions

The legislature passed a law that requires school transportation carriers to train all school bus drivers in how to handle serious food allergy reactions. The training must include instruction on identifying anaphylaxis symptoms and administering epinephrine by a cartridge injector (“EpiPen”). This new law also extends the protections of the “Good Samaritan” law to cover school bus drivers rendering certain emergency first aid in response to a student’s allergic reaction (PA 18-185, §§ 3 & 7, effective July 1, 2018).

Sports Helmet Safety Working Group

A new law requires the Department of Public Health (DPH) to convene a working group to develop recommendations for creating a system for rating the safety of youth athletic protective headgear and for public disclosure of the ratings. The group must report its findings and recommendations to the Public Health, Education, Children, and General Law committees by January 1, 2019 (SA 18-15, effective October 1, 2018).

Suspended Bus Driver Report Check

A new law specifies that school bus carriers check the Department of Motor Vehicles’ report of suspended bus drivers once during the first week and again during the third week of each month, rather than twice per month. It also requires carriers to prohibit any employee who appears on the report from driving a school bus immediately after reviewing it, rather than within 48 hours of doing so (PA 18-164, § 12, effective July 1, 2018).

Interscholastic Athletics

High School Athletics Task Force

A new law establishes a task force to study high school interscholastic athletics programs, including issues relating to governance, financing, and the role of such programs at the high school. It must submit its report to the Education Committee by January 1, 2019 ([PA 18-182](#), § 14, effective upon passage).

School Construction

School Building Project Managers

The legislature enacted a new law that allows the administrative services commissioner to deny a town's application for a school building project grant if the town designates a regional educational service center as the project manager in the application. By law, there are a number of other criteria that the commissioner must consider when reviewing an application, such as various public health, fire safety, and educational standards ([PA 18-138](#), § 9, effective July 1, 2018).

School Construction Grants

The legislature authorized 19 new school construction projects totaling \$240 million in state grants related to estimated total project costs of \$485.5 million. The same law (1) increased, due to cost and scope changes, an existing grant commitment by \$32 million for a previously authorized project and (2) provided additional funding, of up to \$73.5 million, for other projects by waiving certain rules and statues ([PA 18-138](#), effective upon passage).

School Districts and Boards of Education

Connecticut-Grown Products Sold to Schools

A new law requires anyone who sells a Connecticut-grown farm product through the Connecticut farm-to-school program to offer proof that it was produced in Connecticut to the buying school district, school, or educational institution. The proof must include the name of the person or business that produced the product and the name and address of the farm where it was produced ([PA 18-73](#), § 1, effective October 1, 2018).

Exemption from School Districts Enrolling as Medicaid Providers

A new law creates a process to exempt small school districts, those with fewer than 1,000 students, from enrolling as Medicaid providers and other related state requirements (PA 18-182, § 15, effective upon passage).

Minority Staff Recruitment

A new law focuses the minority staff recruitment plan that boards of education must create on educators, rather than all staff (PA 18-34, § 7, effective July 1, 2018).

Revisions to the Student Data Privacy Act

The legislature made numerous changes to the student data privacy law, which restricts how website, online service, and mobile application operators who contract with boards of education can process, use, and access student data. Among its provisions, the law requires (1) the Department of Administrative Services (DAS) Commission for Educational Technology to develop a student data privacy terms-of-service agreement addendum that may be used in contracts between boards of education and operators pursuant to the privacy law and (2) boards of education to annually report to the commission on the use of any online services that are not under a contract that meets the privacy law requirements. It also adds a new member to the Student Data Privacy Task Force (PA 18-125, effective July 1, 2018, except the provisions regarding the agreement addendum and the task force are upon passage).

School Governance Councils

A new law specifies that elementary, middle, and high school governance councils may include students' parents or guardians who are public officials (PA 18-42, § 8, effective July 1, 2018).

Study of School Ability to Search Electronic Devices

The legislature created a working group to study and make recommendations on the search and seizure of students' personal electronic devices. The group must submit its findings and recommendations to the Education Committee by January 1, 2019 (SA 18- 28, effective upon passage).

Vo-Ag Center Enrollment

The legislature passed a law that prohibits a board of education from denying certain students enrollment in an agricultural science and technology education center ("vo-ag center") (PA 18-182, § 16, effective upon passage).

Special Education

Contracts Required for Private Special Education Providers

The legislature enacted a law that requires, starting July 1, 2019, any board of education to have a written contract, instead of an agreement, with a private special education provider in order to receive a state reimbursement grant for special education costs (known as the excess cost grant). Under the excess cost grant program, the state reimburses a board for a student's special education costs that exceed four and a half times the average per pupil educational cost of that school district ([PA 18-183](#), § 1, effective July 1, 2018).

Special Education Services Documentation

A new law requires SDE to develop standards and a process for documenting privately provided special education services that includes the use of standard forms or other electronic reporting systems. The forms or systems must allow the provider to document the frequency, type, and scope of services provided to individual students. The law also requires private providers to submit their operating budgets to SDE by October 1 of the school year in which they are providing the service ([PA 18-183](#), §§ 4 & 5, effective July 1, 2018).

Student Data Privacy and Special Education

A new law creates an exception, under certain conditions, to the student data privacy law for boards of education when special education students use a necessary online service or application and the service or application operator cannot meet the privacy law contract requirements ([PA 18-125](#), § 2, effective July 1, 2018).

Truancy Interventions for Students with Disabilities

The legislature passed a law that requires SDE to include truancy intervention models that address the needs of students with disabilities as part of the intervention models it already must provide to boards. The same law requires school districts' chronic absenteeism and prevention plans to collect data on chronic absenteeism and truancy of students with disabilities ([PA 18-182](#), §§ 3 & 4, effective July 1, 2018).

State Board of Education and SDE

Diversity and SBE's Five-Year Education Plan

A new law requires the State Board of Education's (SBE) five-year education plan to include a statement that the state's teacher workforce should reflect the state's racial and ethnic diversity. It also requires SDE to identify and utilize or support a number of practices and programs to boost minority teacher recruitment (PA 18-34, §§ 1 & 6, effective July 1, 2018).

Free Retake of Teacher License Exam Agreement

The legislature passed a new law that requires SDE to enter into a memorandum of understanding with teacher licensure test vendors to allow some test takers to get a free retake of the exam under certain conditions (PA 18-34, § 9, effective upon passage).

Minimum Budget Requirement (MBR) Penalty Waiver

A new law waives, for FY 18, the penalty for violating the prohibition on a town reducing its budgeted amount for education, as long as the town meets certain criteria. In general, a town is prohibited from budgeting less for education than it did in the previous FY unless it can demonstrate specific changes within its school district (such as reduced student enrollment). This prohibition is referred to as the MBR.

The new law waives the state penalty for violating the MBR for FY 18 if a town meets the following requirements:

1. the town's FY 18 ECS grant was reduced due to (a) reductions in allotments authorized in the 2017 budget act (PA 17-2, June Special Session, §§ 13 & 14) or (b) withholdings or reductions in state assistance to help pay for rental rebate assistance (CGS § 12-170f(d)) and
2. the town subsequently reduced its FY 18 budgeted appropriation for education in an amount up to its ECS grant reduction (PA 18-1, effective upon passage).

Safe Haven Law Instruction

The legislature enacted a law that requires SBE to assist boards of education in including instruction related to Connecticut's "safe haven law," which allows a parent to voluntarily give up custody of an infant, age 30 days or younger, to an emergency room without being subject to arrest for abandonment. The same law requires DCF to provide instructional materials related to safe haven to SBE and boards of education (PA 18-182, §§ 2 & 13, effective July 1, 2018).

Statewide Reading Plan

A new law (1) requires SDE to include in its statewide reading plan the alignment of reading instruction with the two-generational initiative and (2) allows OEC, in its two-generational initiative, to consider the alignment of state and local support systems around the statewide reading plan for students in kindergarten to grade three ([PA 18-129](#), effective July 1, 2018).

Teachers and Other Education Employees

Extended Duration of Non-Renewable Certification

The legislature enacted a new law that extends the temporary non-renewable teacher certification from one to three years ([PA 18-51](#), § 7, effective July 1, 2018).

Flexibility Regarding Reading and History Requirements for Teacher Certification

A new law requires that SBE adopt teacher credential regulations that allow for certain semester hour coursework requirements to be substituted by their equivalent. The requirements that may be substituted for are (1) for an initial educator certificate with an elementary endorsement, completion of at least three semester hours of a U.S. history survey course and (2) for an initial educator with an early childhood through grade three or an elementary endorsement, completion of at least six semester hours of a comprehensive reading instruction course ([PA 18-51](#), § 8, effective July 1, 2018).

Income Tax Revenue Diverted to the Retired Teachers' Health Insurance Premium Account

The budget act requires \$16.1 million of the income tax revenue diverted to the Budget Reserve Fund for FY 18 to be transferred to the retired teachers' health insurance premium account. The transferred amount must be in addition to any other statutorily required contributions or payments to the account ([PA 18-81](#), § 22, effective May 14, 2018).

Minority Teacher Recruitment Task Force

A new law authorizes (1) the chairpersons of the Minority Teacher Recruitment Task Force to appoint a new member to the task force who will serve as the third chairperson and (2) the Commission on Equity and Opportunity executive director to appoint three members of the task force, instead of the executive director, or her appointee, serving on the task force ([PA 18-34](#), § 5, effective July 1, 2018).

New Alternative Route to Teacher Certification

The legislature enacted a new law that requires SDE to develop, or review and approve, a new alternate route to certification program for people in certain professions to be teachers, including paraeducators, charter school teachers, veterans, and others ([PA 18-34](#), § 2, effective July 1, 2018).

Reemployment Pay for Retired Teachers and Administrators

A new law extends, by two years from 2018 to 2020, a provision allowing certain retired teachers and administrators to exceed the annual earnings limit without having to pay back the excess to the Teachers Retirement System ([PA 18-42](#), § 9, effective upon passage).

Revoking, Suspending, or Placing a Teacher's Credential on Probation

The legislature passed a new law that allows SBE to, in addition to its authority to revoke, suspend a teacher's certificate, permit, or authorization ("credential") or to place a teacher's credential on probation in certain discipline cases. Under prior law, SBE could only revoke a credential. The new law bans a person from employment in a public school if his or her credential has been denied or suspended, but, if SBE places a credential on probation, the teacher may continue in the profession under conditions the commissioner sets ([PA 18-51](#), § 5, effective July 1, 2018).

School Social Workers

A new law specifies that if someone holds a professional educator certificate with a school social worker endorsement, the person may use the title "school social worker" to describe his or her activities while working at a public or private school, even if the person is not a DPH-licensed social worker ([PA 18-168](#), § 10, effective October 1, 2018).

Teacher Certification and Cross Endorsement

A new law makes changes in teacher certification rules regarding initial certifications, cross endorsements for those already holding a certification, and certain licensure exam exceptions for out-of-state teachers to make it easier, in certain areas, to obtain certification or cross endorsement ([PA 18-34](#), §§ 4 & 8, effective July 1, 2018).

Teacher Permit for Veterans' Spouses

A new law requires SBE, upon receipt of a proper application, to issue a three-year “military spouse teacher permit” to military spouses who have taught for at least two years under an appropriate certificate issued by another state, the District of Columbia, a U.S. territory or possession, or Puerto Rico. The law applies to any armed forces member’s spouse who has received orders to come to Connecticut ([PA 18-144](#), effective July 1, 2018).

Teachers' Retirement System (TRS) Study Panel

The legislature established a six-member panel to conduct a study of the Commission on Fiscal Stability and Economic Growth’s proposal to reform the TRS. The panel must report the results, which may include recommendations to reform the TRS, to the Appropriations Committee by January 1, 2019 ([PA 18-81](#), § 58, effective upon passage).

Temporary Teacher Certification Endorsement for Kindergarten

A new law authorizes the education commissioner to grant a teacher, with a certification endorsement for grades one through six, an endorsement to teach kindergarten for one year if the teacher meets certain requirements. This exception may be extended for one additional year if the teacher can demonstrate that he or she is enrolled in a program to meet the appropriate kindergarten endorsement requirements ([PA 18-51](#), § 6, effective July 1, 2018).

Timeframe for Mandated Reporters of Abuse and Neglect

A new law reduces, from 72 to 48 hours, the amount of time a mandated reporter has to report the suspected abuse or neglect of a person (1) with an intellectual disability or (2) served by the Department of Social Services’ Division of Autism Spectrum Disorder Services. Mandated reporters include teachers and certain others working in schools, among others ([PA 18-96](#), effective July 1, 2018).

Technical High Schools and Careers

Delay of the Technical High School System Becoming an Independent Agency

The legislature passed a law that delays, by one year, the transition of the Technical Education and Career System (TECS) (formerly known as the technical high school system) into an independent state agency, separate from SDE ([PA 18-182](#), §§ 7-12 & 17-21, effective upon passage except the provision making TECS a separate state agency is effective July 1, 2020).

Mobile Manufacturing Labs

A new law requires the economic and community development commissioner, in collaboration with the labor commissioner and the Manufacturing Innovation Advisory Board, to issue a request for proposals to operate “mobile manufacturing training labs.” The labs must support manufacturing careers by providing various services, such as continuing education for manufacturing employees and advanced manufacturing demonstrations to middle and high school students (SA 18-24, effective upon passage).

Workforce Pipeline Training

A new law, which creates the Apprenticeship Connecticut Initiative, requires the labor commissioner to issue a request for qualifications (RFQ) in order to seek proposals from regional industry partnerships for a workforce pipeline training program to serve the workforce needs of manufacturers and other employers. To be eligible, a regional industry partnership must include at least one educational institution, such as a vocational-technical school or an institution of higher education, or at least one employer located in the region. Prior to the deadline the commissioner establishes for responses to the RFQ, each regional work force development board must submit a report to the General Assembly that states the most pressing work force needs within the board's region (PA 18-178, § 45, effective date July 1, 2018).

Higher Education

Accreditation of Private Occupational Schools by OHE

A new law provides the OHE executive director greater discretion to accept or reject third-party accreditation of private occupational schools by a U.S. Department of Education-recognized agency without finding reasonable cause. It also requires any initial application received by OHE that remains incomplete six months after submittal to expire, prohibiting OHE from approving it (PA 18-36, effective July 1, 2018).

Annual Reports Relating to Military Veterans and Licensure

A new law requires licensing authorities to submit annual reports about service members and veterans who receive credit for military training or experience when applying for a credential to the the Higher Education and Employment Advancement Committee. By law, they must already submit these reports to the Veterans’ Affairs Committee and the Labor Department. It also requires the Board of Regents (BOR) and UConn’s Board of Trustees (BOT) to send modified versions of these reports to the Higher Education committee (PA 18-37, effective July 1, 2018).

Education-Related Benefits for Veterans with Qualifying Conditions

By law, veterans with honorable discharges are eligible for certain benefits and a new law extends these benefits to more veterans. It extends eligibility for tuition waivers for the state's public colleges and universities to veterans who (1) were discharged under conditions other than dishonorable or for bad conduct and (2) have a qualifying condition. Under the new law, a "qualifying condition" means a diagnosis of post-traumatic stress disorder or traumatic brain injury made by, or a military sexual trauma experience disclosed to, an individual licensed to provide care at a U.S. Department of Veterans Affairs facility. The law also makes such veterans eligible for (1) a state high school diploma exam fee waiver; and (2) an honorary high school diploma, if the veteran withdrew from high school for military service in World War II, the Korean Hostilities, or during the Vietnam era, and consequently did not receive a diploma ([PA 18-47](#), §§ 6-10, effective October 1, 2018).

Institutional Aid for Undocumented Students

A new law allows certain students without legal immigration status, including honorably discharged veterans, access to institutional aid to attend a state public higher education institution (i.e., UConn and the Connecticut State Colleges and Universities). The act extends eligibility to these students if they meet certain residency, age, and criminal history requirements and file with the institution an affidavit about their intent to legalize their immigration status.

Veterans are eligible for this institutional financial aid immediately, while non-veterans are eligible on the earlier of January 1, 2020 or when Congress provides a "pathway to citizenship" for students without legal immigration status ([PA 18-2](#), effective upon passage).

Program Approval for Independent Institutions of Higher Education

A new law (1) extends for two years, until July 1, 2020, the existing exemption for certain nonprofit, independent higher education institutions from OHE's approval process for new programs and program modifications and (2) limits the new program exemption to 12 programs per year. It also adds new filing requirements for eligible institutions, requiring them to file an OHE-created form prior to students enrolling in any new or modified program ([PA 18-33](#), effective July 1, 2018).

Student Loan Ombudsman

A new law requires the banking commissioner, by January 1, 2019, to report to the Banking Committee on the status of the student loan ombudsman. By law and within available appropriations, the banking commissioner must designate a student loan ombudsman to assist student loan borrowers ([PA 18-173](#), § 95, effective October 1, 2018).

Additional Minor Changes

Various Acts

In addition to the acts summarized above, a number of other acts make minor changes affecting education. These acts include the following:

1. PA 18-15 (adds “school counselor” to state laws that mention “guidance counselor”; both terms are recognized by SDE for professional certificate endorsements, but the guidance counselor endorsement is no longer issued for new endorsement applications);
2. PA 18-34, § 3 (adds a new member to the teacher Performance Evaluation Advisory Council and requires the council to work collaboratively with the Minority Teacher Recruitment Task Force);
3. PA 18-51, §§ 1 & 2 (makes minor changes to magnet school enrollment data requirements and the grant payments);
4. PA 18-103 (makes technical and grammatical changes to statutes concerning higher education);
5. PA 18-139, § 12 (removes the economic and community development commissioner from the list of officials who must meet with the Education, Higher Education and Employment Advancement, and Labor and Public Employees committees each November to discuss state workforce needs, occupational trends, and the employment status of graduates of the state’s Technical Education and Career System (formerly known as the technical high school system); and
6. SA 18-7 (allows a board of education to enter into a memorandum of understanding with a neighboring town’s board of education to share classrooms and other resources to educate and support recently-enrolled students who have been displaced as a result of natural disasters in Puerto Rico).

JM:cmg