CONNECTICUT STATE BOARD OF EDUCATION

IN RE:	**:**	**PETITION FOR**
	:	**DECLARATORY RULING**
PETITION OF	**:**	
CAPITAL PREPARATORY SCHOOLS, INC.,	**:**	**CASE NO: _____**
and CAPITAL PREPARATORY	**:**	
MIDDLETOWN CHARTER SCHOOL	**:**	
PLANNING COMMITTEE,	**:**	
Petitioners	**:**	
FOR A DECLARATORY RULING	**:**	**MARCH 14, 2025**

PETITION FOR DECLARATORY RULING

I. INTRODUCTION

1. Pursuant to Connecticut General Statutes §4-176 and Connecticut Agency Regulations §10-4-21, Petitioners **Capital Preparatory Schools, Inc**. and **Capital Preparatory Middletown Charter School Planning Committee** hereby petition the State Board of Education to issue a declaratory ruling with regard to the following issues, as further set forth herein in the Petitioners' Prayer for Relief: a) whether the State Board of Education is required to rank charter school applicants when approved in order to determine which one will be funded first, and b) whether said ranking is then binding upon the State Board of Education and/or the State Department of Education in the approval, issuance of charters **and funding** of charter schools. It is respectfully submitted that the State Board of Education's and/or State Department of Education's actions/inactions with respect to these matters are in error, and that a) the School, as the highest ranked of the charter school applicants in 2023 was entitled to be funded first (once the General Assembly determined to fund new charter schools), in light of Connecticut General Statutes §§10-66bb(a)(2) and 10-66ee(k), and b) as such, the School should be issued a charter and be funded. As such, the State Board of Education should issue the declaratory ruling as requested and as set forth herein in the Prayer for Relief.

II. BACKGROUND/FACTS

2. Petitioner **Capital Preparatory Schools, Inc**. [hereinafter "CPS"] (address: 777 Main Street, Bridgeport, CT 06604) is a Connecticut non-stock corporation and is a charter management organization ["CMO"], as that term is defined under Conn. Gen. Stat. §10-66aa *et seq*. CPS would be the CMO for the School.

3. Petitioner **Capital Preparatory Middletown Charter School Planning Committee** is the governing body for Capital Preparatory Middletown Charter School ["the School"], which has received an initial certificate of approval by the State Board of Education. It is an unincorporated association.

4. The Respondent, **State of Connecticut Department of Education** is the state agency responsible for, and is Connecticut's agent in, all matters related to education. The State Department of Education serves as the administrative arm of the Respondent **State Board of Education**, which is responsible for the general supervision and control of the educational interests of the State, which interests include preschool, elementary and secondary education, special education, vocational education and adult education.

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

6. On or about November 30, 2022, CPS submitted on behalf of the School an application to operate a "state charter school" in Connecticut. The proposed charter school (Capital Preparatory Middletown Charter School) would have provided much needed educational programming and services for a diverse body of students/learners in grades 6-12 from the

Middletown community, based upon a model involving (among other things) high expectations for student achievement and behavior, a longer school day and year, and early college access and partnerships, with social justice being a central theme. This model has a demonstrated record of success in other schools managed by CPS.

7. The application submitted by CPS on behalf of the School was one of six applications submitted by various entities to operate a charter school in response to the State Board of Education's March 15, 2022 request for applications for state and local charter schools.

8. Connecticut statutes clearly delineate the process for the approval, funding and opening of a charter school.

a. After applicants for charter schools are submitted, the State Board of Education ***may*** then grant initial certificates of approval for charter schools. ***Connecticut General Statutes §10-66bb(a)(1)***. (Emphasis added).

b. After that, the General Assembly then "***may*** appropriate funds to the Department of Education for the purposes of providing grants to local and state charter schools, *pursuant to section 10-66ee"* and *"**if*** such funds are appropriated, an initial certificate of approval for a charter for a local or state charter school shall be effective and deemed a charter as of July first of the first fiscal year for which such funds are appropriated." ***Connecticut General Statutes §10-66bb(a)(2)***. (Emphasis added).

c. In turn, **Connecticut General Statutes §10-66ee(k)** provides: "***If*** any fiscal year, more than one new state or local charter school is approved … and is awaiting funding … the State Board of Education ***shall*** determine which school is funded first based on a consideration" of several enumerated factors.[1] (Emphasis added).

9. As part of the process, the SDE reviewed the applications, via the statutory factors/criteria set forth in the application rubric, and issued scores with respect to the various factors/criteria. The SDE deemed that the School's "application meets the criteria needed to

[1] Those factors listed in this statute are: 1) The quality of the proposed program as measured against the criteria required in the charter school application process, 2) whether the applicant has a demonstrated record of academic success by students, 3) whether the school is located in a school district with a demonstrated need for student improvement, and 4) whether the applicant has plans concerning the preparedness of facilities, staffing and outreach to students.

operate a successful charter school." Indeed, the School had the highest score of the six applicants.

10. Based upon the scores, the SDE recommended that two schools (Capital Preparatory Middletown Charter School and Edmonds Cofield Preparatory Academy for Young Men) be approved.

11. At a duly noticed meeting on March 1, 2023, two charter schools (Capital Preparatory Middletown Charter School and Edmonds Cofield Preparatory Academy for Young Men) were approved by the State Board of Education and received initial certificates of approval, as provided under Connecticut General Statutes §10-66bb(a)(1).

12. Subsequently, the State Department of Education's March 7, 2023 submission to the General Assembly's Appropriations Committee Education Subcommittee Working Group listed the charter school applicants, further listing Capital Preparatory Middletown Charter School as the first school on that listing and Edmonds Cofield Preparatory Academy for Young Men as the second school on that listing, along with the other schools that did not receive an initial certificate of approval. ***Attachment A (relevant excerpts).***[2] This is understandable, since Capital Preparatory Middletown Charter School received the highest score via the State Board of Education's application rubric (with Edmonds Cofield Preparatory Academy for Young Men receiving the second highest score). ***Id***.

13. The General Assembly then adopted its biennium budget for the 2023-2024 and 2024-2025 fiscal years. The budget contains a line item for all charter schools. ***Attachment B (excerpt of Public Act 23-204)***. There are no line items for specific charter schools. The

[2] This submission was apparently in order to comply with Conn. Gen. Stat. §10-66bb(a)(1)'s requirement to submit notice of the initial certificates of approval to the General Assembly.

biennium budget contained in said line item $135,077,285[3] for charter schools for the 2023-2024 fiscal year and $137,514,785 for charter schools for the 2024-2025 fiscal year.

14. Only one of the two schools that receive approval on March 1, 2023 from the State Board of Education (Edmonds Cofield Preparatory Academy for Young Men) has received funding from the State Department Education for the 2023-2024 fiscal year (and beyond). Capital Preparatory Middletown Charter School did not receive any such funding.

15. It is respectfully submitted that the failure to fund Capital Preparatory Middletown Charter School was the result of violation of state laws (and a breach of the duties of the State Board of Education and/or State Department of Education under such laws), and Petitioners seek that the State Board of Education remedy the situation.

16. Capital Preparatory Middletown Charter School received its initial certificate of approval, consistent with ¶8.a, above. In addition, in June of 2023, with the passage of the biennial budget; ***Attachment B***; the General Assembly exercised its discretion to appropriate funds for charter schools (including new schools) to the Department of Education, consistent with ¶8.b above. However, the State Board of Education and/or the State Department of Education breached its mandatory obligations under Connecticut General Statutes 10-66bb(a)(2) and/or Connecticut General Statutes §10-66ee(k) with respect to issuance of a charter and the funding of Capital Preparatory Middletown Charter School, in light of its highest ranking of the applications approved.

17. CPS was desirous of knowing the steps undertaken by the State in complying with the mandate of Connecticut General Statutes §10-66ee(k) for determining which school would be funded first and why Edmonds Cofield Preparatory Academy for Young Men instead of Capital

[3]It appears that only $131,251,382 was spent out of this line item for the 2023-2024 fiscal year.

Preparatory Middletown Charter School was funded first. As such, on November 4, 2024, CPS made a request under the Connecticut Freedom of Information Act ["FOIA"] for copies of records relating to 1) the process for determining which school (Capital Preparatory Middletown Charter School or Edmonds Cofield Preparatory Academy for Young Men) would be funded first, as required by Connecticut General Statutes §10-66ee(k), and 2) the determination by the State (including and especially the State Board of Education) as to which school would be funded first, as required by Connecticut General Statutes §10-66ee(k). CPS was notified by the State Department of Education on November 26, 2024 that "Department staff have determined that we have no records that are responsive to [the FOIA] request."

18. In light of the clear language of Connecticut General Statutes §10-66ee(k), there are only two possible outcomes: a) via its receipt of the highest score of the applicants (and schools approved in 2023), as further confirmed by the aforementioned March 7, 2023 memo submitted to the General Assembly, the State Board of Education has ranked Capital Preparatory Middletown Charter School at the top and thus it should have been funded (and acquired its charter), and the State Department of Education has failed to carry out its mandatory duty to issue a charter to and funding to the School, or b) the State Board of Education failed to carry out its mandatory duty in determining which school is funded first, under that same statute.

19. The SDE has apparently asserted that the General Assembly is the entity that made the decision not to fund Capital Preparatory Middletown Charter School; indeed, there are admittedly statements in the floor debate of the House of Representatives on June 5, 2023, indicating that an adjustment/reduction in the charter school line item of Department of Education budget was for the purpose of removing funding for Capital Preparatory Middletown Charter School. Simply put, this is NOT a power that the General Assembly has.

20. The General Assembly has the power to provide aggregate funding to charter schools, including the power not to fund any (new) charter schools. *See* Connecticut General Statutes 10-66bb(a)(2). However, as the General Assembly has provided such funding, there is no basis in the law for Edmonds Cofield Preparatory Academy for Young Men to have received the funding and a charter while not funding and not providing a charter to Capital Preparatory Middletown Charter School.

21. Under the clear language of Connecticut General Statutes §10-66ee(k), it is the power of the State Board of Education (not any other entity) as to which new charter school was to be funded first. The General Assembly has the discretion to appropriate funds, but it is up to the State Board of Education to determine which schools will be funded first (and secure their charter). Based upon the scoring, either the State has already made that decision via its ranking of Capital Preparatory Middletown Charter School, or the State Board of Education should make that decision based upon its rankings.

22. By letter dated January 21, 2025; ***Attachment C***; the Petitioners requested, *inter alia*, the following action.

> We believe that the State Board of Education and/or State Department of Education currently has the authority to issue a charter to Capital Preparatory Middletown Charter School. While there may be no need for further action by the State Board of Education, if necessary, we would request that the State Board of Education issue a resolution indicating that Capital Preparatory Middletown Charter School (via its ranking) be funded and issued a charter consistent with Connecticut General Statutes §§10-66ee(k) and 10-66bb(a)(2).

No response has been received to such request.

23. As a result, the Petitioners are aggrieved by the State Department of Education's (and/or State Board of Education's) breach of Connecticut General Statutes §§10-66bb(a)(2) and 10-66ee(k) and the failure to issue a charter and appropriate monies to the School. The

Petitioners have been and/or will be deprived of monies rightfully belonging to the School and prevented from opening a charter school that will fill an important need for students in the Middletown area.

III. LEGAL CLAIMS: DECLARATORY RULING

24. The issues in dispute are a) the authority/obligation of the State Board of Education to determine which charter school shall be funded first, when more than one charter school has received an initial certificate of approval in accordance with Connecticut General Statutes §§10-66bb(a) and 10-66ee(k), and b) the obligation of the State Department of Education to issue a charter (and appropriate funds to) a charter school after the State Board of Education has so ranked the charter school under Connecticut General Statutes §10-66ee(k) and after the General Assembly has appropriate monies to charter schools under Connecticut General Statutes §§10-66bb(a)(2) and 10-66ee.

25. The State Department of Education's actions raise actual bona fide and substantial questions regarding, among other things, the obligations of the Respondents State Board of Education and/or the State Department of Education to so approve, issue a charter and fund charter schools. The Petitioners respectfully assert that the State Board of Education's and the State Department of Education's actions/inactions are inconsistent with state law and their statutory duties.

26. The State Board of Education and/or the State Department of Education has effectively taken the position that they will not carry out their obligations under Connecticut General Statutes §§10-66bb(a)(2) and 10-66ee(k).

27. The issues involved in this petition relate to the proper roles of the State Board of Education and/or the State Department of Education in the issuance of charters and the funding

of charter schools (once the General Assembly appropriates monies for charter schools).

28. The Petitioners have a legal and equitable interest in the issues raised in this petition in that the School is unable to open despite a) the State Board of Education's issuance of a certificate of initial approval under Connecticut General Statutes §§10-66bb(a)(1), b) the State Board of Education's ranking of its application under Connecticut General Statutes §10-66ee(k), and c) the General Assembly's appropriation for charter schools to the State Department of Education under Connecticut General Statutes §10-66bb(a)(2), due to the lack of a charter and lack of distribution of appropriations from the State Department of Education.

29. The dispute has affected substantial public interests, namely, the education of students who would be served by the School.

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

31. In light of the inaction by the State Board of Education to the prior January 21, 2025 request by the Petitioners, there are no other remedies which the Petitioners can or must exhaust. Indeed, in a perfect world, the Petitioners would seek access to the courts via a declaratory judgment and/or mandamus action; however, the Petitioners fear that based upon similar cases, the State Department of Education would seek to dismiss such a lawsuit, asserting, among other things, that the Petitioners must first make a request of the State Board of Education for a declaratory ruling before the Petitioners may proceed in the courts. As such, the Petitioners have chosen the instant path.

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

to the Petitioners and to remove the uncertainty of their rights.

PRAYER FOR RELIEF

WHEREFORE, the Petitioners hereby request that this State Board of Education issue the following relief:

1. A declaratory ruling that once the General Assembly has appropriated monies for charter schools in accordance with Connecticut General Statutes §10-66bb(a)(2) and Connecticut General Statutes §10-66ee, the State Department of Education shall disburse monies to charter schools, in accordance with Connecticut General Statutes §10-66ee(k).

2. A declaratory ruling that once the General Assembly has appropriated monies for charter schools in accordance with Connecticut General Statutes §10-66bb(a)(2) and Connecticut General Statutes §10-66ee, the State Board of Education (not any other entity) shall determine which charter school shall be funded first, in accordance with Connecticut General Statutes §10-66ee(k).

3. A declaratory ruling declaring that it is the State Board of Education's sole responsibility to determine which charter school entity will be funded first whenever a) the General Assembly has appropriated monies for charter schools in accordance with Connecticut General Statutes §10-66bb(a)(2) and b) more than on charter school entity is approved by it, in accordance with Connecticut General Statutes §10-66ee(k).

4. A declaratory ruling declaring that the State Board of Education (and/or State Department of Education) may not delegate this responsibility to determine which charter school entity will be funded first, in accordance with Connecticut General Statutes §10-66ee(k).

5. A declaratory ruling declaring that the State Board of Education has ranked the Petitioner-School first (in light of it scoring on its application), in accordance with Connecticut

General Statutes §10-66ee(k).

6. A declaratory ruling declaring that as a result of the ranking/determination under Connecticut General Statutes §10-66ee(k), and the General Assembly's exercise of is discretion to fund charter schools in accordance with Connecticut General Statutes §10-66bb(a)(2), the Petitioner-School shall be funded and its initial certificate of approval shall be deemed effected and shall be deemed a charter, in accordance with said Connecticut General Statutes §10-66ee(k).

7. A declaratory ruling declaring that the State Board of Education (or State Department of Education) is obligated to extend to the highest scoring charter school, pursuant to Connecticut General Statutes §10-66ee(k) a charter pursuant to Connecticut General Statutes §10-66bb(a)(2), as of July first of the fiscal year for which such funds are appropriated.

8. A declaratory ruling declaring that any attempt by the State Department of Education to a) withhold monies appropriated by the General Assembly for charter schools from the School, and/or b) not provide monies appropriated by the General Assembly for charter schools to the School was, is, and/or would be illegal.

PETITIONERS,
CAPITAL PREPARATORY SCHOOLS, INC., and
CAPITAL PREPARATORY MIDDLETOWN
CHARTER SCHOOL PLANNING COMMITTEE

By_____

Mark J. Sommaruga
Pullman & Comley, LLC
90 State House Square
Hartford, CT 06103
Tel: (860)-424-4388
Fax: (860) 424-4370
Email: msommaruga@pullcom.com

CONNECTICUT STATE BOARD OF EDUCATION

IN RE:	**:**	**PETITION FOR**
	:	**DECLARATORY RULING**
PETITION OF	**:**	
CAPITAL PREPARATORY SCHOOLS, INC.,	**:**	**CASE NO: _____**
and CAPITAL PREPARATORY	**:**	
MIDDLETOWN CHARTER SCHOOL	**:**	
PLANNING COMMITTEE,	**:**	
Petitioners	**:**	
FOR A DECLARATORY RULING	**:**	**MARCH 14, 2025**

CERTIFICATE RE: NOTICE

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

1. **State of Connecticut Department of Education,** by regular mail and by certified mail, return receipt requested (nature of interest: respondent to instant petition).
2. **State of Connecticut Board of Education,** by regular mail and by certified mail, return receipt requested (nature of interest: respondent to instant petition).
3. **Charlene M. Russell-Tucker, Commissioner of Education**, by certified mail, return receipt requested (nature of interest: general supervision/statutory interest, chief executive officer of respondent-agency).
4. **City of Middletown Board of Education**, by certified mail, return receipt requested (nature of interest: school district for the City of Middletown, where the School will be located).

PETITIONERS,
CAPITAL PREPARATORY SCHOOLS, INC., and
CAPITAL PREPARATORY MIDDLETOWN
CHARTER SCHOOL PLANNING COMMITTEE

By_____

Mark J. Sommaruga
Pullman & Comley, LLC
90 State House Square
Hartford, CT 06103
Tel: (860)-424-4388
Fax: (860)-424-4370
Email: msommaruga@pullcom.com

STATE OF CONNECTICUT
DEPARTMENT OF EDUCATION

Connecticut General Assembly
Appropriations Committee
Education Subcommittee Work Group
March 7, 2023

Detailed information on authorized, filled, and vacant positions; please break down by funding source (General Fund, federal, other)

*Attachment Number 1

What positions are vacant? What departments are they in and what are their job titles?

*Attachment Number 2

The 41 positions in active recruitment now – For each position, by title, please provide: (a) where are you in the hiring process and (b) the current projected hire date.

*Attachment Number 3

Describe the proration formula used for the three capped grants in the Governor's proposal (Adult Ed, Health and Human Services, Excess Cost). When were these grants first capped?

The Department calculates the entitlements and then adds up the total to be distributed and compares them to the appropriation. We then ratably reduce each district to stay within the appropriation. For example, if the appropriation is $8,000,000 and the total that we would need to pay out is $10,000,000 we would multiply each districts entitlement by 80% ($8,000,000/$10,000,000).

The Excess Cost grant legislation was changed to instead of ratably reducing every district we apply a three tiered percentage based on the districts wealth ranking and then after that increasing or decreasing each district to match the appropriation. These grants have been capped going back many years, the cap for Adult Education was removed this current year and the Excess Cost cap was removed for two years (2007-08 & 2008-09).

How many Hartford students are enrolled at: (a) RESC Magnets, (b) BOE magnets and (c) in traditional Hartford public schools?

Program	RESC/District	2022-23*	Hartford Enrollment	Non-Hartford Enrollment
Open Choice	**Total**	**2,263**	**2192**	**71**

- Remove barriers to enrollment, attendance, and success (review policies, practices and procedures.)
- Designate McKinney-Vento homeless liaison to ensure that the law is carried out.
- Ensure all school staff can effectively carry out the provisions of the law
- Refer families to health, dental, mental health, housing, substance abuse, and other appropriate services.

- Federal Funding:
  - Annual appropriation - McKinney-Vento Education for Homeless Children and Youth: $967,892 FY 2023 - Applications/awards to 17 LEAs. Funding range: $20,000-100,000. Average award: $55,198.
  - COVID Relief funding via ARP Homeless Children and Youth (ARP HCY): $7.2 million in FY 2021 - ARP HCY via both competitive and entitlement grants. Applications/awards: 109 LEAs. Funding range: $5,118 – $473,038. Average Award: $47,430.

No Matter What campaign to support students experiencing homelessness and unstable housing: $350,000

- Statewide priority in ARP HCY State application to provide Outreach and Awareness.
- Grassroots marketing campaign to create tailored efforts using ARP HCY funds focused upon improve the lives and futures of students experiencing homelessness.
- Produce and share information across units at all levels (neighborhoods, towns/cities, and state) and increasing all LEA's ability to reach and connect with HCY.
- Improve identification and effectively support HCY in school.

Could you provide an update concerning SDE's efforts regarding minority teacher recruitment?

*Attachments number 5 & 6

What is the status of applications for the seven new charter schools that have submitted applications? Please provide the list of applicants and for each, the number of seats sought.

Seven applications were submitted, one application was incomplete. The seats sought are as follows:

1. **Capital Prep - Middletown**

PROJECTED STUDENT ENROLLMENT															
	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	Total
Year 1	N/A							90	45	45	100	45	45	10	380
Year 2	N/A							90	90	45	100	100	50	50	525
Year 3	N/A							90	90	90	100	100	100	50	620
Year 4	N/A	80	80					90	90	90	100	100	100	100	830
Year 5	N/A	80	80	80				90	90	90	100	100	100	100	910

2. **Edmonds Cofield Preparatory Academy for Young Men - New Haven**

PROJECTED STUDENT ENROLLMENT															
	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	Total
Year 1							75								75
Year 2							75	175							175
Year 3							75	100	100						275
Year 4							75	100	100	100					375
Year 5							75	100	100	100					375

3. New Haven Hebrew Public Charter School

PROJECTED STUDENT ENROLLMENT															
	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	Total
Year 1	0	50	50												100
Year 2	0	50	50	50											150
Year 3	0	50	50	50	50										200
Year 4	0	50	50	50	50	50									250
Year 5	0	50	50	50	50	50	50								300

4. CoLAB Academy – Waterbury

PROJECTED STUDENT ENROLLMENT															
	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	Total
Year 1											100				100
Year 2											100	100			200
Year 3											100	100	100		300
Year 4											100	100	100	100	400
Year 5											100	100	100	100	400

5. Reach Academy – Bristol

	PK	K	1	2	3	4	5	Total
Year 1	100	100						200
Year 2	100	100	100					300
Year 3	100	100	100	100				400
Year 4	100	100	100	100	100			500
Year 5	100	100	100	100	100	100		600

6. Breakthrough Leadership Academy – Hamden

PROJECTED STUDENT ENROLLMENT															
	PK	K	1	2	3	4	5	6	7	8	9	10	11	12	Total
Year 1							60	60							120
Year 2							60	60	60						180
Year 3							60	60	60	60					240
Year 4							60	60	60	60					240
Year 5							60	60	60	60					240

Overall scores ranged from the highest being 38.12 to the lowest being 20.38.

Both Capital Prep and Edmonds Cofield Preparatory Academy for Young Men (bolded) were recommended to move forward with next steps of the approval process.

To meet the statutorily required deadlines, these top two applicants were notified that their proposal met the next phase of seeking an SBE approved initial certification, which included a local public hearing. The SBE voted at the March 1st meeting to grant initial certificates of approval to each school. They cannot operate as a charter school until funds from the General Assembly are appropriated. The four applicants not being recommended were notified in a similar manner. They each withdrew their application.

How much funding has SDE provided to the American School for the Deaf over the past five years? What does the school do with the funding they receive from the state?

Please note the department acts only as a passthrough agency for the funds that the state provides to the American School for the Deaf. We do not direct how the funds are used.

FY2019 = $7,432,514 ($7,857,514 appropriation less $425,000 holdback)
FY2020 = $7,932,514 ($8,357,514 appropriation less $425,000 holdback)
FY2021 = $7,932,514 ($8,357,514 appropriation less $425,000 holdback)
FY2022 = $8,957,514 (which included a $600,000 carry forward from the prior year)
FY2023 = $9,157,514

What have the family resource centers been able to do with the additional funding from the state allocation of ESSER funds, and how much was that funding in total? Please also provide a list of the additional funding's distribution by town/FRC.

SDE provided each of the 57 **Family Resource Centers (FRCs)** $25,000 from the SDE federal ARP ESSER II funding, a total allocation of $1,425,000 for use through September 30, 2023. These funds are in addition to the $104,000 each FRC receives annually from State funds. The use of ESSER II funds to supplement existing FRCs allowed for the expansion of existing FRC services to increase participation among children and families who do not currently have access to programming; and for creating new practices that are innovative and targeted to meet the needs of students and families who have been disproportionately affected by the pandemic. Expansion and innovation projects are aligned with educational recovery and learning acceleration for every student and CSDE priorities areas: Academic Supports,

House Bill No. 6941

Public Act No. 23-204

AN ACT CONCERNING THE STATE BUDGET FOR THE BIENNIUM ENDING JUNE 30, 2025, AND MAKING APPROPRIATIONS THEREFOR, AND PROVISIONS RELATED TO REVENUE AND OTHER ITEMS IMPLEMENTING THE STATE BUDGET.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (*Effective July 1, 2023*) The following sums are appropriated from the GENERAL FUND for the annual periods indicated for the purposes described.

	2023-2024	2024-2025
LEGISLATIVE		
LEGISLATIVE MANAGEMENT		
Personal Services	57,412,819	61,511,563
Other Expenses	19,480,241	21,149,147
Equipment	3,110,000	3,295,000
Flag Restoration	65,000	65,000
Minor Capital Improvements	3,800,000	3,800,000
Interim Salary/Caucus Offices	710,622	582,025
Connecticut Academy of Science and Engineering	206,000	212,000
Old State House	750,000	800,000
Capitol Child Development Center	263,000	

Programs for Senior Citizens	4,423,247	4,423,247
Elderly Nutrition	3,404,171	4,904,171
Aging in Place Pilot Program	150,000	150,000
Communication Advocacy Network	100,000	100,000
AGENCY TOTAL	31,877,324	34,098,363
EDUCATION		
DEPARTMENT OF EDUCATION		
Personal Services	20,361,195	20,580,254
Other Expenses	8,910,963	10,075,963
Development of Mastery Exams Grades 4, 6, and 8	10,630,694	10,643,533
Primary Mental Health	345,288	345,288
Leadership, Education, Athletics in Partnership (LEAP)	312,211	312,211
Adult Education Action	194,534	194,534
Connecticut Writing Project	95,250	95,250
CT Alliance of Boys and Girls Clubs	1,000,000	1,000,000
Sheff Settlement	23,068,530	18,684,967
Parent Trust Fund Program	267,193	267,193
Commissioner's Network	9,869,398	9,869,398
Local Charter Schools	957,000	957,000
Bridges to Success	27,000	27,000
Talent Development	2,252,524	2,257,823
School-Based Diversion Initiative	900,000	900,000
EdSight	1,131,361	1,133,236
Sheff Transportation	70,825,009	75,465,173
Curriculum and Standards	2,215,782	2,215,782
Non-Sheff Transportation	14,944,797	15,675,787
Aspiring Educators Diversity Scholarship Program	4,000,000	10,000,000
Education Finance Reform		150,000,000
Assistance to Paraeducators		5,000,000
American School For The Deaf	10,757,514	11,557,514
Regional Education Services	262,500	262,500

Family Resource Centers	6,802,710	6,352,710
Charter Schools	135,077,285	137,514,785
Child Nutrition State Match	2,354,000	2,354,000
Health Foods Initiative	4,151,463	4,151,463
Vocational Agriculture	18,824,200	18,824,200
Adult Education	23,263,310	23,386,642
Health and Welfare Services Pupils Private Schools	3,438,415	3,438,415
Education Equalization Grants	2,233,420,315	2,287,900,235
Bilingual Education	3,832,260	3,832,260
Priority School Districts	30,818,778	30,818,778
Interdistrict Cooperation	1,537,500	1,537,500
School Breakfast Program	2,158,900	2,158,900
Excess Cost - Student Based	181,119,782	181,119,782
Open Choice Program	31,189,780	31,472,503
Magnet Schools	284,942,141	287,484,265
After School Program	5,750,695	5,750,695
Extended School Hours	2,919,883	2,919,883
School Accountability	3,412,207	3,412,207
AGENCY TOTAL	3,158,342,367	3,381,949,629
CONNECTICUT TECHNICAL EDUCATION AND CAREER SYSTEM		
Personal Services	161,877,298	164,583,764
Other Expenses	26,918,577	26,918,577
AGENCY TOTAL	188,795,875	191,502,341
OFFICE OF EARLY CHILDHOOD		
Personal Services	10,021,638	10,147,924
Other Expenses	1,319,731	1,319,731
Birth to Three	32,952,407	32,452,407
Evenstart	545,456	545,456
2Gen - TANF	572,500	572,500
Nurturing Families Network	12,139,479	12,139,479
OEC Parent Cabinet	150,000	150,000
Head Start Services	5,083,238	5,083,238

Sec. 448. Section 12-699b of the general statutes is repealed. (*Effective January 1, 2024*)

Sec. 449. Section 453 of public act 21-2 of the June special session, as amended by section 471 of public act 22-118, is repealed. (*Effective from passage*)

Sec. 450. Section 6 of public act 23-56 is repealed. (*Effective from passage*)

Sec. 451. Section 16-2 of the general statutes, as amended by section 21 of public act 23-102, is repealed. (*Effective from passage*)

Sec. 452. Section 3 of public act 14-205 and section 58 of public act 18-81 are repealed. (*Effective July 1, 2023*)

Sec. 453. Section 19 of public act 23-5 is repealed. (*Effective July 1, 2023*)

Sec. 454. Special act 15-19 is repealed. (*Effective July 1, 2023*)

Approved June 12, 2023

PULLMAN &COMLEY

Mark J. Sommaruga
90 State House Square
Hartford, CT 06103-3702
p 860 424 4388
f 860 424 4370
msommaruga@pullcom.com
www.pullcom.com

January 21, 2024

Ms. Erin D. Benham,
Vice Chairperson
Connecticut State Board of Education
450 Columbus Boulevard
Hartford, Connecticut 06103

Re: Capital Preparatory Schools and Capital Preparatory Middletown Charter School

Dear Ms. Benham:

The undersigned serves as legal counsel for Capital Preparatory Schools ("CPS").

On March 1, 2023, two charter schools (Capital Preparatory Middletown Charter School and Edmonds Cofield Preparatory Academy for Young Men) were approved by the State Board of Education and received initial certificates of approval, as provided under Connecticut General Statutes §10-66bb(a)(1). Only one of the schools (Edmonds Cofield Preparatory Academy for Young Men) received funding from the State Department Education for the 2023-2024 fiscal year (and beyond). Capital Preparatory Middletown Charter School did not receive such funding. For the reasons set forth in this letter, we respectfully believe that the failure to fund Capital Preparatory Middletown Charter School was the result of violation of state laws (and a breach of the duties of the State Board of Education and/or State Department of Education under such laws), and we seek that the State Board of Education remedy the situation.

We believe that the Connecticut statutes clearly delineate the process for the approval, funding and opening of a charter school.

1. After applicants for charter schools are submitted, the State Board of Education ***may*** then grant initial certificates of approval for charter schools. ***Connecticut General Statutes §10-66bb(a)(1)***.

2. After that, the General Assembly then "***may*** appropriate funds to the Department of Education for the purposes of providing grants to local and state charter schools, *pursuant to section 10-66ee"* and *"**if*** such funds are appropriated, an initial certificate of approval for a charter for a local or state charter school shall be effective and deemed a charter as of July first of the first fiscal year for which such funds are appropriated." ***Connecticut General Statutes §10-66bb(a)(2)***. (Emphasis added).

3. In turn, **Connecticut General Statutes §10-66ee(k)** provides: "***If*** any fiscal year, more than one new state or local charter school is approved … and is awaiting funding … the State Board of Education ***shall*** determine which school is funded first based on a consideration" of several enumerated factors.[1] (Emphasis added)

Capital Preparatory Middletown Charter School received its initial certificate of approval, consistent with #1, above. In addition, in June of 2023, with the passage of the biennial budget, the General Assembly **exercised its discretion** to appropriate funds for charter schools (including new schools) to the Department of Education, consistent with #2 above. However, the State Board of Education and/or the State Department of Education breached its mandatory obligations under Connecticut General Statutes 10-66bb(a)(2) and/or Connecticut General Statutes §10-66ee(k) with respect to the funding of Capital Preparatory Middletown Charter School, in light of its highest ranking of the applications approved.

CPS was desirous of knowing the steps undertaken by the State in complying with the mandate of Connecticut General Statutes §10-66ee(k) for determining which school would be funded first and why Edmonds Cofield Preparatory Academy for Young Men instead of Capital Preparatory Middletown Charter School was funded first. As such, on November 4, 2024, CPS made a request under the Connecticut Freedom of Information Act ("FOIA") for copies of records relating to 1) the process for determining which school (Capital Preparatory Middletown Charter School or Edmonds Cofield Preparatory Academy for Young Men) would be funded first, as required by Connecticut General Statutes §10-66ee(k), and 2) the determination by the State (including and especially the State Board of Education) as to which school would be funded first, as required by Connecticut General Statutes §10-66ee(k). CPS was notified by the State Department of Education on November 26, 2024 that "Department staff have determined that we have no records that are responsive to [the FOIA] request."

Subsequently, the State Department of Education forwarded to the undersigned its March 7, 2023 submission to the General Assembly's Appropriations Committee Education Subcommittee Working Group in which it listed the charter school applicants, further listing Capital Preparatory Middletown Charter School as the first school on that listing and Edmonds Cofield Preparatory Academy for Young Men as the second school on that listing, along with the other schools that did not receive an initial certificate of approval. This is understandable, since Capital Preparatory Middletown Charter School received the highest score via the State Board of Education's application rubric (with Edmonds Cofield Preparatory Academy for Young Men receiving the second highest score).

[1] Those factors listed in this statute are: 1) The quality of the proposed program as measured against the criteria required in the charter school application process, 2) whether the applicant has a demonstrated record of academic success by students, 3) whether the school is located in a school district with a demonstrated need for student improvement, and 4) whether the applicant has plans concerning the preparedness of facilities, staffing and outreach to students.

In light of the clear language of Connecticut General Statutes §10-66ee(k), there are only two likely outcomes: 1) via its receipt of the highest score of the applicants (and schools approved in 2023), as further reflected in the aforementioned March 7, 2023 memo submitted to the General Assembly, the State Board of Education has ranked Capital Preparatory Middletown Charter School at the top and thus it should have been funded (and acquired its charter), or 2) the State Board of Education failed to carry out its mandatory duty in determining which school is funded first, under that same statute.

We understand that it has been reported that the General Assembly is the entity that made the decision not to fund Capital Preparatory Middletown Charter School; indeed, there are admittedly statements in the floor debate of the House of Representatives on June 5, 2023 indicating that an adjustment/reduction in the charter school line item of Department of Education budget was for the purpose of removing funding for Capital Preparatory Middletown Charter School. Simply put, this is NOT a power that the General Assembly has. The General Assembly has the power to provide aggregate funding to charter schools, including the power not to fund any (new) charter schools. ***See Connecticut General Statutes 10-66bb(a)(2).*** However, as the General Assembly has provided such funding, there is no basis in the law for Edmonds Cofield Preparatory Academy for Young Men to have received the funding and a charter while not funding and not providing a charter to Capital Preparatory Middletown Charter School. Under the clear language of Connecticut General Statutes §10-66ee(k), it is the power of the State Board of Education (not any other entity) as to which new charter school was to be funded first. The General Assembly has the discretion to appropriate funds, but it is up to the State Board of Education to determine which schools will be funded first (and secure their charter). Based upon the scoring, either the State has already made that decision via its ranking of Capital Preparatory Middletown Charter School, or the State Board of Education should make that decision based upon its rankings.

In the absence of a resolution of this matter, CPS will be taking any necessary legal action. CPS is currently contemplating which legal action to take. CPS has various options, including but not limited to seeking a writ of mandamus or declaratory relief. We believe that the wording of above-mentioned statutes is clear, and that a court of competent jurisdiction would agree with our interpretation if we should be unable to resolve this matter with the State Board of Education.

CPS believes strongly in its case, but wants to avoid litigation if possible. It would seem that the best option going forward is for the State Board of Education and/or State Department of Education to correct this miscarriage of justice. Indeed, we appreciate that the State Board of Education stood up to pressure and in March of 2023 voted to approve the application of Capital Preparatory Middletown Charter School and issue an initial certificate of approval, based upon the strength of its application as reflected in it having the highest score of all the applicants.

We believe that the State Board of Education and/or State Department of Education currently has the authority to issue a charter to Capital Preparatory Middletown Charter School. While there may be no need for further action by the State Board of Education, if necessary, we would request that the State Board of Education issue a resolution indicating that Capital Preparatory Middletown Charter School (via its ranking) be funded and issued a charter consistent with Connecticut General

Statutes §§10-66ee(k) and 10-66bb(a)(2). While we disagree that there are insufficient monies in the charter school account/line item (or in the education budget) in the current State budget, at the very least, Capital Preparatory Middletown Charter School should be funded in future years, whether 2025-2026, 2026-2027 and beyond.

If you should have any questions with regard to this matter or this request, please do not hesitate to contact this office. Thank you for your assistance and cooperation in this matter; it has been and will be greatly appreciated.

Sincerely yours,

/s/ *Mark J. Sommaruga*

Mark J. Sommaruga

Copy: Connecticut State Board of Education
The Honorable Charlene M. Russell-Tucker
(Commissioner, Connecticut State Department of Education)
Michael P. McKeon, Esq. (Director of Legal and Governmental Affairs)
Dr. Steve Perry, MSW (Head of Schools, Capital Preparatory Schools)