



STATE OF CONNECTICUT  
STATE BOARD OF EDUCATION



April 6, 2016

Mr. Robert Traber  
110 Hale Terrace  
Bridgeport, CT 06610

Re: Achievement First Bridgeport Academy Section 10-4b Complaint

Dear Mr. Traber:

I have reviewed the complaint you submitted pursuant to Section 10-4b of the Connecticut General Statutes ("C.G.S."), concerning the Achievement First Bridgeport Academy ("AFBA"), a charter school in Bridgeport. With respect to any Section 10-4b complaint, I must first make a threshold determination of whether it asserts claims that may properly be brought pursuant to Section 10-4b. See Regulations of Connecticut State Agencies Sections 10-4b-5(c)(1), 10-4b-1(c), 10-4b-3(a)(1). This is a purely legal determination based on the allegations of the complaint and the applicable law concerning the scope of Section 10-4b. Applying these principles here, I have determined as a matter of law that your complaint must be dismissed because Section 10-4b does not apply to charter schools. Rather, if the State Board of Education ("SBE") finds that a charter school has failed to comply with state law, the appropriate response to such non-compliance must be determined through the charter renewal process and other accountability mechanisms established by law for charter schools.

Pursuant to Section 10-4b, "any resident of a local or regional school district, or parent or guardian of a student enrolled in the public schools of such school district who has been unable to resolve a complaint with the board of education of such local or regional school district may file with the State Board of Education a complaint in writing . . . alleging the failure or inability of the board of education of such local or regional school district to implement the educational interests of the state as defined in section 10-4a . . ." (emphases added.) Thus, Section 10-4b itself refers only to local or regional boards of education. Similarly, Section 10-4b-1(f) of the Regulations of Connecticut State Agencies defines "board of education" for purposes of a Section 10-4b complaint as a local or regional board of education. Neither the statute nor the regulation refer to charter schools.

Furthermore, it is clear that charter schools are not treated as equivalent or analogous to local boards of education for all purposes under state law. Indeed, in defining "charter school" for purposes of state law, the Legislature expressly distinguished such schools from local or regional boards of education. Thus, under C.G.S. Section 10-66aa (1), a "charter school" is defined as a "public, nonsectarian school which is (A) established under a charter granted [by the SBE] pursuant to Section 10-66bb, (B) organized as a nonprofit entity under state law, (C) a public

agency for purposes of the Freedom of Information Act . . . and (D) operated independently of any local or regional board of education in accordance with the terms of its charter and the provisions of this section and sections 10-66bb to 10-66uu . . . .” (emphasis added.)<sup>1</sup>

It is also telling that the Legislature passed a statute that expressly provides that the governing council of a state charter school “shall act as a local board of education for purposes of collective bargaining.” See C.G.S. Section 10-66dd(b)(4) (emphasis added). The decision to create such a rule for collective bargaining only is a strong indication that the Legislature does not regard charter schools and their governing councils as legally equivalent to local boards of education for *other* purposes, such as Section 10-4b.

Charter schools are, however, accountable by statute to the SBE and the Commissioner of Education in regard to compliance issues. Thus, subsection (g) of C.G.S. Section 10-66bb provides that charters may be renewed upon application in accordance with the provisions for granting such charters. Upon application for such renewal, the SBE may commission an independent appraisal of the performance of the charter school that includes, but is not limited to, an evaluation of the school’s compliance with the provisions of the C.G.S. The SBE shall consider the results of such appraisal in determining whether to renew such charter. The statute also provides that the SBE may deny an application for renewal of a charter if it finds that the school has not complied with applicable laws and regulations. In addition, subsection (h) of C.G.S. Section 10-66bb provides that the Commissioner may place a charter school on probation if the school has failed to comply with the terms of its charter or with applicable laws and regulations. Finally, the SBE may revoke a charter if a charter school has failed to comply with the terms of probation, including the failure to file or implement a corrective action plan, or if the charter school has failed to comply with the terms of its charter or applicable laws and regulations. See C.G.S. Section 10-66bb(i).

The charter is essentially an agreement between the governing council of a charter school and the SBE. Under the statutes discussed above, the SBE has the authority to enforce the charter and to ensure that the school holding the charter is operating in compliance with applicable laws and regulations, either through a corrective action plan, probation, revocation or nonrenewal. Unlike local boards of education, which are accountable to the residents of their towns through the electoral process and Section 10-4b, the governing councils of charter schools are accountable to the SBE and the Commissioner pursuant to the statutes regulating charter schools.

Based upon the statutory analysis set forth above, I conclude that the provisions of Section 10-4b do not apply to charter schools and, accordingly, this complaint must be dismissed. Nevertheless, your complaint will be retained for consideration by the Department’s Choice Office, which advises me and the SBE on charter matters, and in connection with the SBE’s review of any charter renewal application filed by AFBA.

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<sup>1</sup> The fact that charter schools and local boards of education are separate and distinct legal entities under state law is reinforced by subsection (c) of C.G.S. Section 10-66tt, which requires the SBE, when considering whether to approve certain contracts between the governing council of a charter school and a charter management organization, to solicit and review the comments of the board of education for the town in which the charter school is located.

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If you have any questions, you may contact Peter Haberlandt, the Department's Director of Legal Affairs, at (860) 713-6520 or [peter.haberlandt@ct.gov](mailto:peter.haberlandt@ct.gov).

Sincerely,



Dr. Dianna R. Wentzell  
Commissioner of Education

cc: Chris Kunhardt, Chair, AFBA Board of Trustees  
Christine Perés, Principal, AFBA Elementary School  
Challa Flemming, Principal, AFBA Middle School  
Members, State Board of Education  
Peter Haberlandt, Director, Division of Legal and Governmental Affairs  
Laura L. Anastasio, Attorney, Division of Legal and Governmental Affairs