



OFFICE OF THE GOVERNOR
STATE OF CONNECTICUT

January 28, 2025

Anita Ford Saunders, Co-chair
Michele Marie Clay, Co-chair
Capital Prep Middletown Planning Committee

Subject: Response to Letter dated January 8, 2025, Regarding Charter School Funding

Dear Ms. Saunders and Ms. Clay:

The Office of the Governor and the State Department of Education (“SDE”) has reviewed your letter dated January 8, 2025, in which you make claims that SDE has acted unlawfully by not providing funding to Capital Preparatory Charter School Middletown. This allegation is both baseless and concerning, as it misrepresents the SDE’s legal authority and the legislative process that governs charter school funding.

To be clear, SDE is obligated to operate within the parameters set by the General Assembly. In this instance, no funds were appropriated by the legislature for the Capital Preparatory Charter School Middletown. Therefore, any claim SDE is withholding funds unlawfully is categorically false. The law is unequivocal: without a legislative appropriation, SDE cannot and will not disburse funds.

On December 19, 2024 members of SDE, including Commissioner Russell-Tucker and SDE legal counsel, met with Dr. Steve Perry, Capital Preparatory’s legal counsel, and its Chief of Staff to discuss Dr. Perry’s claim that the failure of Capital Preparatory Charter School Middletown to receive funding in the 2024-2025 Fiscal Year budget was contrary to law.

In support of this assertion, he has pointed to the following language from, respectively, Conn. Gen. Stat. §§10-66bb(a)(1) & (2) and 10-66ee(k). Section 10-66bb(a) provides in relevant part:

(a)(1) . . . Upon granting an initial certificate of approval for a charter, such state board shall submit a copy of the initial certificate of approval for the charter . . . to the joint standing committees of the General Assembly having cognizance of matters relating to education and appropriations and the budgets of state agencies.

(2) The General Assembly 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*. 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.

(emphasis added). In turn, Section 10-66ee(k) provides:

If in any fiscal year, more than one new state or local charter school is approved pursuant to section 10-66bb and is awaiting funding pursuant to the provisions of this section, ***the State Board of Education shall determine which school is funded first*** based on a consideration of the following factors in order of importance as follows: (1) The quality of the proposed program as measured against the criteria required in the charter school application process pursuant to section 10-66bb, (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.

Capital Preparatory Charter School Middletown was but one of three charter applications that had received their initial certificate of approval from the State Board and then moved to the legislature for possible funding. Two of them -- one of which had obtained its initial certificate of approval in prior years -- received funding; Capital Preparatory Charter School Middletown did not. The budget book promulgated by the General Assembly's Office of Fiscal Analysis contains the following language: "Provide Funding for New Charter Schools: Funding of \$600,000 in FY 24 and \$3,037,500 in FY 25 is provided for new charter schools: one in Norwalk (\$300,000 in FY 24 and \$2.1 million in FY 25), and one in New Haven (\$300,000 in FY 24 and \$937,500 in FY 25)." *Id.*, p. 273. This was in keeping with the House's June 5, 2023, discussion of the charter funding, specifically the following exchange (emphasis added):

REP. NUCCIO (53RD): It's in the -- sorry, it's in the amendment. We just did line 13 of the amendment in line T419 strike "142,264,785" and insert "137,514,785". That's about a \$7 million difference. ***It's a \$7 million reduction in year two, for charter schools.*** As far as I know, the only thing that increased in year two of the charter schools was the new charter school funding for Middletown, Norwalk, and not Danbury. There was another one and I can't remember it right now.

SPEAKER RITTER: Yeah, Representative Walker.

REP. WALKER (93RD): Through you, Mr. Speaker, ***that is the removal of the funding for the Middletown School.***

SPEAKER RITTER: Thank you, Madam. Representative Nuccio.

REP. NUCCIO (53RD): Okay, ***so Middletown is then out now sir,*** through you?

SPEAKER RITTER: Representative Walker, can you clarify that it was Middletown, Madam?

REP. WALKER (93RD): Through you, Mr. Speaker, *yes*.

I will also note that when the charter-approval process was amended pursuant to Public Act 15-239, then Education Committee Co-Chair Andrew Fleischmann explained during the June 2, 2015, House session the now-current, two-step charter-approval process (emphasis added):

[A]s I understand it, the initial certificate of approval is what is granted by the State Board of Education to a group that has proposed a charter school that meets the standards and requirements of the State Board of Education.

Once that initial certificate of approval has been granted, *the organizers of a charter school can then seek . . . to be included in the budget* of the government of the State of Connecticut.

It is not until those dollars for a given school have been included in the budget, and the budget has been enacted and begins on July 1st of the fiscal year, that that initial certificate of approval turns into a charter.

And this is important because today, in Connecticut, we have folks who are interested in a couple of charter schools who have been advertising for months that they have a charter school. Sign up. Send your child.

But those charter schools are purely notional right now because this General Assembly hasn't funded them and if we were to pass a budget that had no funding for those schools, those billboards, those flyers, those letters, those e-mails that went out to all those families would be a disappointing, misleading set of communications.

The nomenclature in this amendment and the underlying bill makes things clear. *When the State Board of Education has given you approval, you have an initial certificate. You have initial approval. But you don't have a charter. You have a charter once you're in the state budget and that budget has gone into effect.*

Despite this legislative history, and the fact that Capital Preparatory Charter School Middletown was expressly excluded from the budget, Capital Preparatory Charter School Middletown, is now claiming that the legislature only has the right to allocate funds, *not* to determine to which charter schools those funds will be allocated and that the State Board of Education can do so, even if the legislature has said otherwise. This is not supported by law or fact. As explained above, the legislature has clearly spoken as to where funds were to be allocated.

Furthermore, and in addition to the clear intent of the legislature, is the plain language of Sections 10-66ee(k) and 10-66bb. More specifically, Section 10-66ee(k) provides: "If in any fiscal year, more than one new state or local charter school is *approved pursuant to section 10-66bb* and is awaiting funding pursuant to the provisions of *this section*, the State Board of Education shall determine which school is funded first" (emphasis added). It is important to consider the two components of this language. First, and as is clear from that language, the requisite precondition

to this State Board of Education determination is that it has been “approved pursuant to section 10-66bb.” In turn, Section 10-66bb(a)(2) provides: “

The General Assembly 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. 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.

In other words, the Section 10-66bb approval referenced in Section 10-66ee(k) is the legislature’s appropriation of funds to the State Board of Education that is tied to a particular charter applicant. This is not a blanket allocation of funds; rather, Section 10-66ee(k) clearly talks about the possibility of different charter applicants being “approved pursuant to section 10-66bb.” Id.

The second component of that quoted provision from Section 10-66ee(k) references “awaiting funding pursuant to the provisions *of this section*,” or Section 10-66ee. Thus, the funding in question is not the legislative appropriation set forth in Section 10-66bb; rather, it is the funding formulas and calculations that are set forth in Section 10-66ee for, respectively, local and state charter schools once the legislature has determined which, if any, charter applicants are to receive funding.

In short, the plain language of Section 10-66ee, when read in conjunction with Section 10-66bb - - which effectuates the clear legislative intent that is reflected in the legislative debates excerpted herein -- unambiguously establishes that the approval of a new charter school is a two-step process in which the State Board issues an initial certificate of approval, after which it is left to the legislature to determine whether or not to appropriate funds to one or more specific charter applicant. Equally clear is the fact that the legislative appropriation is targeted funding, not some block grant, the application of which is to be unilaterally determined by the State Board. Thus, without a specific legislative appropriation, a charter application has not been “approved pursuant to section 10-66bb.” Conn. Gen. Stat. §10-66ee(k).

As you know, the Governor remains committed to supporting charter schools. Given the serious and unfounded nature of your accusations, and the fact that you have retained legal counsel, moving forward, the Office of the Governor and the SDE will limit any discussions on this topic except through counsel. We strongly recommend that you direct your advocacy efforts to the appropriate legislative channels to secure funding for your school.

Sincerely,



Natalie A. Braswell | General Counsel
Office of Governor Ned Lamont