

GROTON BOARD OF EDUCATION  
SPECIAL MEETING MINUTES  
OCTOBER 7, 2019 @ 6:00 P.M.  
CENTRAL OFFICE, ROOM 11

**Members Present:** Vice Chairman Andrea Ackerman, Jane Giulini, Katrina Fitzgerald, Gretchen Newsome, Rosemary Robertson, Rita Volkmann, Jay Weitlauf, Lee White

**Members Absent:** Chairman Kim Shepardson Watson

**Also Present:** Michael Graner, Sam Kilpatrick

Vice Chairman Ackerman called the meeting to order at 6:04 p.m.

1. Charter Discussion re: Grant Approval Process (Attachments #1, 2, 3, 4, 5, 6) – Dr. Graner reviewed pertinent aspects of the following:
  - a. Chapter IV. Representative Town Meeting from the Charter
  - b. Sections 1-3 of the memo from Suisman Shapiro
  - c. Section C of the memo from John Burt
  - d. Conclusion of the memo from Floyd Dugas
  - e. Proposed draft letter from Kim Watson to the RTM Moderator and the Mayor of Groton Town
  - f. Board of Education Grants Revenue page from the current budget
2. New Middle School Process
  - a. Groton Middle School Administrative Organization (Attachment #7) – Dr. Graner explained that the appointment of one Principal for the new Middle School will required a reduction in force as outlined in Sections 4 and 5 of Article XIV Reduction of Administrative Staff from the AGSA contract. Dr. Graner outlined his proposal: Principal, Associate Principal, and 2 Assistant Principals.
  - b. Organization of Middle School Classes and Schedule Development (Attachment #8) – Dr. Graner reviewed the proposed scheduled.
  - c. Middle School Transition Team Process (Attachment #9) – Dr. Graner reviewed the Fall 2019 Planning Timeline.

**MOTION:** Ackerman, White: To adjourn at 7:40 p.m.  
**PASSED UNANIMOUSLY**

**Sec. 4.1 Membership; Powers.****4.1.1 General.**

There shall be a Representative Town Meeting, hereinafter referred to as the RTM, of not more than forty-five (45) members.

**4.1.2 Powers.**

The RTM shall exercise exclusively, except as otherwise specifically provided by law, those powers specifically assigned to the RTM:

- a) approve or amend and approve budgets passed by the Council in accordance with Chapter IX of this Charter;
- b) approve or reject supplemental appropriations in excess of ten thousand dollars (\$10,000) in accordance with Chapter IX;
- c) approve or reject bonding ordinances in accordance with Section 5.5.5.1;
- d) accept or reject gifts, grants, and bequests of real and/or personal property with a value in excess of ten thousand dollars (\$10,000);
- e) accept or reject all open spaces and roads not a part of an approved subdivision. Reference is hereby made to Section 5.4.10;
- f) all powers granted under the CGS to the town meeting where the objective of such statute cannot be otherwise accomplished by the Town pursuant to CGS, the Charter, or ordinances.

Action in conformity with all provisions of law, now or hereafter applicable to the transaction of town affairs in meeting, shall, when taken by the RTM in accordance with the provisions of the Charter, have the same force and effect as if such action had been taken in a town meeting open to all the electors of the Town.

The RTM shall have the power to veto any legislative ordinance passed by the Council as hereinafter specified in Sections 4.6 and 5.5.5.4 of the Charter. The RTM shall have the power of initiative as specified in Section 4.5.

**4.1.3 Relationship with Municipal or Administrative Employees.**

The RTM and its members shall not give orders to any subordinates of the Town Manager or of the BOE either publicly or privately. The RTM and its members shall deal officially with the town staff solely through the Town Manager.

**Sec. 4.2 Election; Reapportionment; Representation.****4.2.1 Election.**

Election of RTM members shall be by voting district proportional to the number of electors residing in such district and shall be determined by the Town Clerk and approved by the Council.

**4.2.2 Reapportionment.**

The number of members shall be determined by the Town Clerk and approved by the Council, and shall be calculated in the following manner: a) within sixty (60) days after each presidential election, and within sixty (60) days after redistricting of the Town as determined by the Registrars of Voters and approved by the Council, the total number of electors in the Town and in each district shall be certified by the Town Clerk; b) representation in each district shall be determined by taking the total number of electors in the Town, dividing by forty-five (45) and the number so obtained minus any fraction shall be used to divide the number of electors in each district; c) the resulting whole number, regardless of fractions, nearest to the figure so obtained shall be the number of representatives from that district, except no RTM district shall have less than one (1) representative.

In the event a voting district contains less than five hundred (500) electors, such district shall for the purposes of this section be automatically merged with the adjacent district having the least number of electors, and the number of representatives for such combined district shall be determined in accordance with provisions of this section.

# Suisman Shapiro

Attorneys-At-Law

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April 1, 2019

**CONFIDENTIAL - ATTORNEY-CLIENT PRIVILEGED**

Mr. John Burt  
Town Manager  
Town of Groton  
45 Fort Hill Road  
Groton, CT 06340

Re: Representative Town Meeting powers regarding Board of Education budget

Dear Town Manager Burt:

You have requested that this firm analyze whether the BOE, after submission of its itemized estimate to the Town for the cost of maintenance of public schools, and the Town making its annual budget appropriation to the BOE for the then ensuing fiscal year pursuant to Chapter IX of the Charter, must seek Representative Town Meeting ("RTM") approval per Charter sections 4.1.2(b) and (d) before:

(1) seeking supplemental appropriations;

(2) making amendments to the BOE's itemized estimate by transferring funds in excess of \$10,000 set apart for one purposes within such estimate for another purpose so long as such transfers or amendments do not exceed the total authorized appropriation made to the BOE by the Town for the ensuing fiscal year; and/or

(3) accepting grants over \$10,000 following the Town's approved appropriation.

It is my understanding that you are looking for guidance as to how the aforementioned Charter provisions generally apply to the BOE and that no specific situation has occurred to narrow the focus of your inquiry. The financial relationship between local boards of education and municipal government is complex. Because of the multitude of issues that may be involved with a given fact pattern involving the BOE, its duties and the finances related thereto, the broad questions presented are difficult to analyze in a vacuum and we reserve the ability to analyze specific issues that may arise on a case-by-case basis. Therefore, the following is intended as general guidance as to the interplay between the Town's

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Charter provisions and the powers granted to the BOE when fulfilling its duty to provide and administer public education within the Town.

A. Supplemental Appropriations:

If the BOE requires a supplemental appropriation in excess of \$10,000, RTM approval is required.

- Conn. Gen. Stat. § 10-222 provides in relevant part that: “Expenditures by the board of education shall not exceed the appropriations made by the municipality, with such money as may be received from other sources for school purposes. If any occasion arises whereby additional funds are needed by such board, the chairman of the board shall notify the ... appropriating authority ... and shall submit a request for additional funds in the same manner as is provided for departments, boards or agencies of the municipality and no additional funds shall be expended unless such supplemental appropriation shall be granted and no supplemental expenditures shall be made in excess of those granted through the appropriating authority.”
- Charter § 4.1.2 (b) states: “The RTM shall exercise exclusively, except as otherwise specifically provided by law, those powers specifically assigned to the RTM: ... b) approve or reject supplemental appropriations in excess of ten thousand dollars (\$10,000) in accordance with Chapter IX”.
- We interpret “supplemental appropriations” to mean expenditures over and above the appropriations made by the Town to the BOE for the then ensuing fiscal year pursuant to Chapter IX of the Charter, with such money as may be received from other sources for school purposes. Note: There is additional discussion on “money as may be received from other sources” below in section C of this letter.
- See also Charter § 9.10.4 (prohibiting any board of the Town from involving the Town: “in any obligation to spend money for any purpose in excess of the amount appropriated therefore until the matter has been approved and voted by the Council...”). See also Charter § 9.10.6.

Based on the foregoing, any supplemental appropriation required by the BOE in excess of \$10,000 would need to be approved by the RTM.

B. Transfers; Amendments to BOE’s Itemized Estimate:

Following the BOE’s presentation of its itemized estimate for the cost of maintenance of public schools to the Town and the Town making its annual budget appropriation to the BOE for the then ensuing fiscal year pursuant to Chapter IX of the Charter, the money appropriated shall be expended by and in the discretion of the BOE. The BOE may transfer any unexpended or uncontracted-for portion of any appropriation for school purposes to any other item of its

itemized estimate in excess of \$10,000 without having to seek RTM approval (so long as the BOE's expenditures do not exceed the appropriation made to it by the Town, with such money as may be received from other sources for school purposes).

Prior to the Town making its annual appropriation to the BOE, the Town does have some limited discretion with respect to the amount appropriated to the BOE, subject to applicable law and State oversight (e.g., the minimum budget requirement). Connecticut courts have often summarized the "statutory balance of power" that exists between local boards of education and local municipal appropriating authorities, as follows:

- Section 10-222 provides in relevant part that: "Each local board of education shall prepare an itemized estimate of the cost of maintenance of public schools for the ensuing year and shall submit such estimate to ... the authority making appropriations for the school district ..." Section 10-222 also discusses that the appropriating authority can make spending recommendations and suggestions to the BOE on how the BOE may consolidate non-educational services and realize financial efficiencies. The BOE may accept or reject such suggestions.
- "A town board of education is an agency of the state in charge of education in the town, and broad powers are granted it by the legislature to that end. In the exercise of those powers or in the incurring of expense necessitated thereby to be paid by the town, the board of education is beyond control by the town or any of its officers except as limitations are found in statutory provisions.' .... In the absence of special charter provisions, the power of any municipality to control the budget of its board of education is derived from General Statutes § 10-222. This statute requires the board of education to prepare an itemized estimate of the cost of maintaining the public schools for the ensuing year and to submit its estimate to the board of finance at least two months before the annual meeting at which appropriations are to be made. The estimate must be itemized so that the [appropriating authority] can determine whether a proposed expenditure is for a purpose which it is the duty of the board of education to effectuate or which the board of education can determine in its own independent discretion, or, on the other hand, whether the proposed expenditure is for purposes not within either of those two classifications." Board of Education of the Town of Ellington v. Town of Ellington, 151 Conn. 1 (1963).
- "Where a town board of education includes in the estimates it submits to [the Town's appropriating authority] expenditures for a purpose which is not within statutory provisions imposing a duty upon it nor within one which vests it with a discretion to be independently exercised, the [Town's appropriating authority] may, if in its judgment, considering not only the educational purpose to be served but also the financial condition of the town, it finds that the expenditure is not justified, decline to recommend an appropriation for it; where, however, the estimate is for an expenditure for a purpose which the statutes make it the duty of the board of education to effectuate or [which] they vest in the board of education a discretion to be independently exercised as to the carrying out of some purpose, the town [appropriating authority] has not the power to refuse to include any appropriation for it in the budget it submits and can reduce the

estimate submitted by the board of education only when that estimate exceed the amount reasonably necessary for the accomplishment of the purpose, taking into consideration along with the education needs of the town its financial condition and the other expenditures it must make. The [Town's appropriating authority] in such a case must exercise its sound judgment in determining whether or to what extent the estimate of the board of education are larger than the sums reasonably necessary and if it properly exercises its discretion and the budget is approved by the town the board of education has no power to exceed the appropriations made." Board of Education of the Town and Borough of Naugatuck v. Town and Borough of Naugatuck, 268 Conn. 295, 311-312 (2004).

While the above-cited law displays that the Town has some limited discretion in the determining the amount appropriated to the BOE for the cost of maintenance of public schools for the ensuing fiscal year, after such appropriation is made, the BOE has discretion with respect to how those funds are spent. See C.G.S. § 10-222 ("The money appropriated by any municipality for the maintenance of public schools shall be expended by and in the discretion of the board of education. Except as provided in this subsection, any such board may transfer any unexpended or uncontracted-for portion of any appropriation for school purposes to any other item of such itemized estimate.").

In addition to C.G.S. § 10-222, and notwithstanding the more general provisions of Charter §§ 9.10.4 and 9.10.5, we interpret the more specific language of Charter section 6.1.2 as affording the BOE the same discretion. Section 6.1.2 states: "The BOE shall have all powers and duties conferred by the CGS. These shall include, but not be limited to, determination of educational policy, management of the physical school facilities, determination of employment and compensation of the Superintendent of Schools, determination of the responsibilities of administrative and teaching staffs, and formulation of an annual budget in accordance with Section 9.2.1.2. *Execution of the approved education budget shall be at the discretion of the BOE in accordance with the CGS.*" (Emphasis added).<sup>1</sup>

#### C. Gifts, Grants and Money Received from other Sources

Charter section 4.1.2 (d) provides that: "The RTM shall exercise exclusively, except as otherwise specifically provided by law, those powers specifically assigned to the RTM: ... d) accept or reject gifts, grants, and bequests of real and/or personal property with a value in excess of ten thousand dollars (\$10,000)." For the following reasons, it is our opinion that this provision is generally binding on the BOE, with some exceptions as noted below.

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<sup>1</sup> This analysis focuses on the BOE's annual operating expenditures, and not the BOE's ability to reallocate funds intended for capital projects. Notwithstanding the discretion of the BOE to expend money appropriated for cost of maintenance of schools and to make transfers with respect to its itemized operating expenditures pursuant to C.G.S. 10-222, the Court has held that the BOE does not necessarily have the same unilateral control or discretion regarding capital budgets (even for educational facilities). Board of Education v. City of New Haven, 237 Conn. 169 (1996).

In general, the BOE cannot receive funds independently of the Town, and it may expend only those funds that are appropriated by the Town for the particular year. Likewise, the BOE, when presenting its itemized estimate for the cost of maintenance of public schools to the Town pursuant to Chapter IX of the Charter, is required include within such itemized estimate any anticipated grants or monies to be received for school purposes so that they may be approved for expenditure as part of the annual budget and appropriation process.

We realize that whether grants or money from other sources will be received, or the actual amount thereof, cannot always be determined at the time of the Town's annual budget process. In the event unanticipated grants arise during the fiscal year after the annual appropriation is made to the BOE, it is our opinion that generally such grants should be approved by the Town by an appropriation authorizing the expenditure thereof, and therefore, if such grants would exceed \$10,000, the RTM should approve same. We do not view section 4.1.2(d) as being inconsistent with or inimical to the efficient and proper operation of the educational system entrusted by the State to the BOE. See Board of Education of the City of New Haven v. City of New Haven, 237 Conn. 169, 181 (1996) ("Even in performing those duties as an agent of the state, 'a local charter may limit the powers of the local board of education where its provisions are not inconsistent with or inimical to the efficient and proper operation of the educational system otherwise entrusted by state law to the local boards.'"). In fact, there is a municipal interest in regulating grants received by a BOE because, among other reasons, receipt of such grants could impose future financial implications on the BOE and/or Town.

As previously alluded to, there are exceptions to the above general rule. There are scenarios when the BOE is entitled to receive reimbursement and/or grant money from other sources, which do not envision local Charter pre-approval before the BOE is authorized to receive and/or make expenditures in relation to same. As discussed above, C.G.S. § 10-222 discusses annual appropriations made to the BOE for the maintenance of public schools. Said statutes set forth that: "Expenditures by the board of education shall not exceed the appropriation made by the municipality, *with such money as may be received from other sources for school purposes.*" Said statute also requires: "The annual report for the board of education shall, in accordance with section 10-224, include a summary showing (1) the total cost of the maintenance of schools, (2) *the amount received from the state and other sources for the maintenance of schools*, and (3) the net cost to such municipality for the maintenance of schools...." (Emphasis added). The above-emphasized language suggests that in certain scenarios, the BOE is authorized to receive funds from "other sources" separate and apart from the Town's annual appropriation for school purposes. For instance:

- There are situations where the BOE is required to make certain special education related expenditures during the year beyond its itemized estimate and is eligible for reimbursement and/or grant funding in relation thereto. See, e.g., C.G.S. §§ 10-76d (e)(5) and 10-76g(b). The Town is required to credit the BOE for these expenditures in the amount of the State funds received above and beyond those estimated in the BOE's itemized estimate presented during the budget process.

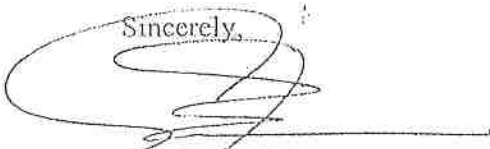
- Section 10-222a sets forth that: "Notwithstanding ... any municipal charter ... to the contrary, whenever any student, or the parent or guardian of any student, pays for lost, damaged or stolen textbooks, library materials, other materials or equipment, or whenever insurance proceeds are received for lost, damaged or stolen textbooks, library materials, other materials or equipment, an amount equal to the amount so paid or received, net of any costs the fiscal authority having budgetary responsibility or charged with making appropriations for the school district has incurred for the purpose of replacing or repairing such lost, damaged or stolen textbooks, library materials, other materials or equipment, shall be deemed to be appropriated to the board of education in addition to the funds appropriated by the town to such board for the fiscal year in which such payment is made or insurance proceeds received. Notwithstanding the provisions of chapter 106, or any municipal charter or special act to the contrary, whenever any outside group or individual makes payment for custodial costs for use of school facilities or otherwise for the use of school facilities an amount equal to the amount so paid or received, net of any costs the fiscal authority having budgetary responsibility or charged with making appropriations for the school district has incurred for the purpose of providing custodial services shall be deemed to be appropriated to the board of education in addition to the funds appropriated by the town to such board for the current fiscal year."

The above are intended as non-exclusive examples to display that notwithstanding the budget process and our opinion that grants should be approved in accordance with the Charter, there are situations where the Town and/or its RTM does not play a part in pre-approving total funding received by the BOE.

Lastly, section 10-237(c) sets forth that: "(c) Any local or regional board of education may receive and accept any donation or gift of personal property to be used for the educational benefit of students." It is our opinion that any such donations or gifts in excess of \$10,000 should be approved by the RTM pursuant to section 4.1.2(d) of the Charter. We believe this provision must be read consistent with the RTM approval requirement in section 4.1.2(d) of the Charter. Such Charter provision does not prohibit the acceptance of gifts and donations, but simply qualifies such right.

After you have had the opportunity to review the foregoing, please let me know if I can be of further assistance in answering any questions you may have and/or in analyzing any specific circumstance that may arise in the future.

Sincerely,



Eric W. Callahan  
EWC/tbs



**Michael Graner Ph.D.**

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**From:** Burt, John <JBurt@groton-ct.gov>  
**Sent:** Friday, April 5, 2019 1:57 PM  
**To:** Michael Graner Ph.D.  
**Cc:** Watson, Kim  
**Subject:** FW: RTM Powers regarding BOE Budget  
**Attachments:** 4-1-19 ltr to John Burt (01767186xA119E).pdf

Hi Mike.

As you may recall, a few months ago the RTM had asked for a legal review of BOE requirements on expenditures and grant acceptance as it relates to the RTM is finally complete. Please see attached.

Here is the synopsis of what it says:

- A. Supplemental Appropriations: Any supplemental appropriation required by the BOE in excess of \$10,000 of the adopted BOE budget would need to be approved the Town Council and RTM.
- B. Transfers; Amendments to BOE's Itemized Estimate: The BOE may transfer any unexpended or uncontracted-for portion of any appropriation for school purposes to any other item of its itemized estimate in excess of \$10,000 without having to seek Council or RTM approval (so long as the BOE's expenditures do not exceed the appropriation made to it by the Town). Execution of the approved education budget shall be at the discretion of the BOE in accordance with the CGS.
- C. Gifts, Grants and Money Received from other Sources: In general, the BOE cannot receive funds independently of the Town, and it may expend only those funds that are appropriated by the Town for the particular year. Likewise, the BOE, when presenting its itemized estimate for the cost of maintenance of public schools to the Town pursuant to Chapter IX of the Charter, is required to include within such itemized estimate any anticipated grants or monies to be received for school purposes so that they may be approved for expenditure as part of the annual budget and appropriation process. New grants during the course of the year, in excess of \$10,000 and not included in their budget, would require Council and RTM approval. There are some exceptions to this rule including, but not necessarily limited to, certain special education grants and individual payment for custodial costs for use of school facilities (charges for lost , damage or stolen textbooks, library materials, etc.).

The BOE may receive a donation or gift of personal property, but any such donation or gift in excess of \$10,000 should be approved by the Council and RTM.

Thank you.  
John

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**From:** Eric Callahan [mailto:ecallahan@sswbgg.com]  
**Sent:** Monday, April 01, 2019 4:41 PM  
**To:** Burt, John

**Cc:** Lora Murphy; Eileen Duggan  
**Subject:** RTM Powers regarding BOE Budget

Mr. Burt,

Please find attached my analysis regarding the RTM's powers concerning the Board of Education.

Eric W. Callahan  
Suisman Shapiro Attorneys-At-Law  
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## MEMORANDUM

To: FJD  
From: REG  
Re: RTM Approval of Grants to BOE  
Date: August 21, 2019

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### I. INTRODUCTION

You asked whether the Town of Groton may require the Board of Education to seek Representative Town Meeting (“RTM”) approval pursuant to Charter § 4.1.2(d) before accepting grants over \$10,000, following the Town’s approved appropriation. Recognizing the lack of authority directly on point, you asked for guidance on how a court would likely resolve this question.

### II. CHARTER PROVISION

The applicable Charter provision is § 4.1.2, which provides, “The RTM shall exercise exclusively, except as otherwise specifically provided by law, those powers specifically assigned to the RTM . . . (d) accept or reject gifts, grants, and bequests of real and/or personal property with a value in excess of ten thousand dollars (\$10,000) . . . .”

### III. LEGAL AUTHORITY ON THE APPORTIONMENT OF AUTHORITY BETWEEN A TOWN AND A BOARD OF EDUCATION

Conn. Gen. Stat. § 10-222 provides, in relevant part, “Expenditures by the board of education shall not exceed the appropriation made by the municipality, with such money as may be received from other sources for school purposes.”

However, Conn. Gen. Stat. § 10-240 requires municipalities<sup>1</sup> to maintain control of their public schools and vests them with the powers to do so:

Each town shall through its board of education maintain the control of all

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<sup>1</sup> Although the statute refers to “towns,” courts have applied it to cities without any discussion of any distinction between towns and cities. *See, e.g., Sheff v. O’Neill*, 238 Conn. 1, 9-10 (1996) (applying § 10-240 to the City of Hartford). Therefore, throughout this memo, the terms “town,” “city,” and “municipality” may be interchanged.

the public schools within its limits and for this purpose shall be a school district and shall have all the powers and duties of school districts, except so far as such powers and duties are inconsistent with the provisions of this chapter.

Conn. Gen. Stat. § 10-241 details powers of school districts (i.e. municipal powers):

Each school district shall be a body corporate and shall have power to sue and be sued; to purchase, receive, hold and convey real and personal property for school purposes; to build, equip, purchase and rent schoolhouses and make major repairs thereto and to supply them with fuel, furniture and other appendages and accommodations; to establish and maintain schools of different grades; to establish and maintain a school library; to lay taxes and to borrow money for the purposes herein set forth; to make agreements and regulations for the establishing and conducting of schools not inconsistent with the regulations of the town having jurisdiction of the schools in such district; and to employ teachers, in accordance with the provisions of section 10-151, and pay their salaries. When such board appoints a superintendent, such superintendent may, with the approval of such board, employ the teachers."

Read together, these and other statutes vest the municipality and the board of education with overlapping powers and duties over the public schools. The case law discussed below clarifies the effects of this overlap, specifically that the municipal charter and ordinances can often limit the authority of a board of education.

#### IV. ANALYSIS

##### A. Dual Role of Boards of Education

Local boards of education serve a dual role, acting in some instances as agents of the state and in other instances as agents of the municipalities they serve. *Purzycki v. Town of Fairfield*, 244 Conn. 101, 112-13 (1998) (drawing distinction for purposes of determining whether sovereign immunity or governmental immunity analysis applied for tort matter). Pursuant to Art. XIII, § 1 of the Connecticut Constitution, "the furnishing of an education for the public is a state function and duty" that is delegated in part to local school boards by Conn. Gen. Stat. § 10-220 and in part to municipalities by Conn. Gen. Stat. § 10-240. *Town of Cheshire v. McKenney*, 182 Conn. 253, 257-58 (1980). Therefore, when local boards of education fulfill these statutory duties, they are acting as agents of the state. *Id.* at 258. "[T]hey possess only such powers as are granted to them by the General Statutes expressly or by necessary implication." *Herzig v. Bd. of Educ. of the Town of West Hartford*, 152 Conn. 144, 150 (1964). By contrast, "[l]ocal boards of education act on behalf of the municipality . . . in their function of maintaining control over the public schools within the municipality's limits," the function delegated to municipalities by § 10-240. *McKenney*, 182 Conn. at 259.

## **B. Function of Charter in Limiting Extent of Board of Education Authority**

"[P]owers of local boards of education are not defined only by state statute, [as] a local charter may limit the powers of the local board of education where its provisions are not inconsistent with or inimical to the efficient and proper operation of the educational system otherwise entrusted by state law to the local boards." *McKenney*, 182 Conn. at 259 (quoting *Local #1186 AFSCME v. Bd. of Educ. of City of New Britain*, 182 Conn. 93, 101 (1980)). Local charters may limit the state's grant of broad powers to local boards of education "either because a relevant state statute expressly defers to local charter provisions . . . or because the local charter provisions are not inconsistent with or inimical to the efficient and proper operation of the educational system otherwise entrusted by state law to local boards." *Local #1186*, 182 Conn. at 101. Charter provisions are invalid when they "impermissibly impinge upon the function of the local board of education in fulfilling its statutory duty respecting education" or when they "encroach upon a field of statewide concern so as to require [them] to yield to the superior power of the state." *McKenney*, 182 Conn. at 260-61.

In *Waterbury Teachers Ass'n v. Furlong*, 162 Conn. 390 (1972), the Connecticut Supreme Court held that a negotiated compensation contract with teachers that was not approved in accordance with charter provisions and not subject to a claim that the payment was necessary for the board of education to comply with its statutory obligation to maintain good public schools was not binding on the board of education and the teachers. In addressing the tension between the board of education and the municipality in controlling budgetary matters, the Court stated:

The general extent of local control was discussed in the recent case of *Board of Education v. Ellington*, supra. As we there noted (p. 6), quoting from *Fowler v. Enfield*, supra: "A town board of education is an agency of the state in charge of education in the town, and broad powers are granted it by the legislature to that end. In the exercise of those powers or in the incurring of expense necessitated thereby to be paid by the town, the board of education is beyond control by the town or any of its officers except as limitations are found in statutory provisions." But to this quotation was added the following statement which has particular significance in our consideration of the present cases: "In the absence of special charter provisions, the power of any municipality to control the budget of its board of education is derived from General Statutes § 10-222."

*Id.* at 397.

The Connecticut Supreme Court has more recently described the parameters of municipal versus board of education control:

"[T]he financial relationship between the local board of education and the municipal government . . . is complex." *New Haven v. State Board of Education*, supra, 228 Conn. 705-706. A board of education's *annual operating budget* is governed by General Statutes § 10-222 (a), which provides that each local board shall submit to the appropriate municipal board a proposed budget *for the ensuing year*." (Emphasis added.) Nonetheless, a submitted budget need not

be adopted as proposed: "Where a town board of education includes in the estimates it submits to a board of finance expenditures for a purpose which is not within statutory provisions imposing a duty upon it nor within one which vests it with a discretion to be independently exercised, the board of finance may, if in its judgment, considering not only the educational purpose to be served but also the financial condition of the town, it finds that the expenditure is not justified, decline to recommend an appropriation for it...." *Board of Education v. Board of Finance*, supra, 127 Conn. 350. "To hold otherwise would be tantamount to the giving of a blank check to boards of education to spend the money of the municipality without regard to economy, efficiency or other local needs." *Waterbury Teachers Assn. v. Furlong*, supra, 162 Conn. 399. If "the estimate is for an expenditure for a purpose which the statutes make it the duty of the board of education to effectuate or they vest in the board of education a discretion to be independently exercised as to the carrying out of some purpose, [then] the town . . . has not the power to refuse to include any appropriation for it in the budget it submits and can reduce the estimate submitted by the board of education only when that estimate exceeds the amount reasonably necessary for the accomplishment of the purpose, taking into consideration along with the educational needs of the town its financial condition and the other expenditures it must make. The [municipality] in such a case must exercise its sound judgment in determining whether or to what extent the estimates of the board of education are larger than the sums reasonably necessary and if it properly exercises its discretion and the budget is approved by the town the board of education has no power to exceed the appropriations made." (Internal quotation marks omitted.) *New Haven v. State Board of Education*, supra, 706-707.

*Bd. of Educ. of the City of New Haven v. City of New Haven*, 237 Conn. 169, 178-79 (1996) (the "*New Haven* case") (alterations in original; footnotes omitted)

In summary, when the board of education is carrying out its state-delegated function to provide primary and secondary education, a local charter, ordinance, or fiscal procedure may limit the powers of the local board of education where its provisions are not inconsistent with or inimical to the efficient and proper operation of the educational system otherwise entrusted by state law to the local boards. While acting as an agent of the municipality, the local boards of education must comply with the municipality's charter, ordinances, and established fiscal procedures. *Id.* at 181.

The exercise of municipal control over multi-year contracts was upheld in a superior court decision in a companion case to the *New Haven* case (involving the same parties). The superior court held that nothing in Conn. Gen. Stat. § 10-222 expressly or impliedly authorizes a board of education to enter into multi-year contracts or leases without prior municipal approval, as the statute governs budgeting "for the ensuing year." An ordinance that regulated the *method* of financing the purchase of goods and services without seeking to regulate the subject matter of such goods and services was not inconsistent with the statute. *New Haven Bd. of Educ. v. City of New Haven*, No. 31 11 24, 1994 WL 700427 \*7-8 (Dec. 5, 1994).

## V. CONCLUSION

A court would likely uphold the application of the Charter provision to all grants which relate to the performance of a municipal function by the board of education. As to grants relating to the performance of a state function by the board of education, a court would likely uphold the application of the Charter provision provided its application “is not inconsistent with or inimical to the efficient and proper operation of the educational system otherwise entrusted by state law to the local boards.” Where a statute specifically provides that a board of education can accept grants, such as Conn. Gen. Stat. § 10-237(c) (relating to student activity funds), the court would likely hold that the municipality cannot exercise control over the acceptance of the grant. However, when there is no statutory provision relating to the receipt of a grant, a court would likely not find that a requirement of RTM approval of the grant is inherently inconsistent with or inimical to the efficient and proper operation of the educational system otherwise entrusted by state law to the local boards. This conclusion is reached based on the reasoning of the *New Haven* case and in recognition of the possibility that grants may carry with them certain requirements that can create obligations for the school board on a multi-year basis or with respect to municipal functions.

The question posed here is an issue of first impression and a court could certainly apply the principles here to reach different conclusions based on the specific facts presented.



# GROTON PUBLIC SCHOOLS

## ADMINISTRATION OFFICES

P.O. Box K, Groton, Connecticut 06340 • 1300 Flanders Road, Mystic, Connecticut 06355  
PHONE (860) 572-2100 • FAX (860) 572-2107

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DRAFT

Dear Patrice and Syma:

Over the last couple of months, the Superintendent and I have been reviewing the Suisman Shapiro report regarding the RTM's powers in relation to the Board of Education budget. We have shared the report with the Board's Finance Committee and with the Board's attorney, Floyd Dugas. Attorney Dugas agrees that the broad statements of law in the Suisman Shapiro report are correct; however, he pointed out that there are some questions regarding the specific factual situation presented, which has not been tested in court.

After reviewing the matter, the Board plans to continue the practice of including all grants in the Board's annual budget document. We have done this over the last several years to inform the Town Council, the RTM, and the general public about all categorical and competitive grants the Board and Town receive to support education.

I also plan to inform the Town Council and RTM members of any major grant applications at our monthly Town & City Councils/RTM/BoE Liaison Council meetings. If the school district receives the grant, it will be included in the budget.

I believe these steps will meet the charter provisions regarding the Board of Education budget and grants to the extent applicable.

Sincerely,

Kim Shepardson Watson  
Chairperson, Groton Board of Education



## Groton Public Schools

### Board of Education Grants Revenue

<u>Grant Name (grant purpose)</u>	<u>Time Period</u>	<u>FY19</u>	<u>FY20 Budget</u>
<b><i>Categorical Grants</i></b>			
Title I (Improving basic services for at-risk students CK,CC,WSMS)	Annual	963,853	963,853
Title II (Professional Development)	Annual	130,998	130,998
Title III (English Language Learners)	Annual	14,459	14,459
Title IV (Student Support & Academic Enrichment)	Annual	71,978	71,978
Carl Perkins (Vocational Education)	Annual	58,310	51,144
School Readiness (Early Childhood)	Annual	528,121	518,751
IDEA (Federal Special Education grant)	Annual	1,122,058	1,122,058
Bilingual Education (Bilingual education)	Annual	1,989	1,989
DOD Supplemental Impact Grant (Tech. Equip)	Annual	260,000	260,000
<b><i>Total Categorical Grants</i></b>		<b>3,151,766</b>	<b>3,135,230</b>
<b><i>Competitive Grants</i></b>			
MSAP (Magnet School Assistance Program)	FY18-22		
MYP (IB Middle Years Program, WSMS,CMS)		130,900	89,000
STEM (STEM Magnet, WSMS)		346,550	326,710
Arts/Humanities (Arts/Humanities Magnet, CMS)		336,050	316,210
<b>Total MSAP Grant</b>		<b>813,500</b>	<b>731,920</b>
DoDEA-Literacy Grant K-8 (Literacy grant for military schools)	FY16-20	195,577	192,022
DoDEA-Math Grant K-12 (Math grant for military schools)	FY18-22	274,660	323,760
DoDEA-STEM Grant K-5, 9-12 (STEM grant for military schools)	FY19-23	217,419	229,674
<b><i>Total Competitive Grants</i></b>		<b>1,501,156</b>	<b>1,477,376</b>
<b>Total Grants</b>		<b>4,652,922</b>	<b>4,612,606</b>

## ARTICLE XII DEMOTIONS

The Board agrees that any and all demotions or disciplinary actions of members of the bargaining unit shall be for cause. The parties further agree that any demotion or disciplinary action will be handled exclusively pursuant to the grievance procedure contained elsewhere in this Agreement, and shall not be subject to the provisions of Connecticut General Statutes §10-151.

## ARTICLE XIII ADMINISTRATIVE ASSIGNMENTS

Notwithstanding any contract provision to the contrary, if the Board decides to exercise its authority to eliminate, consolidate or to reduce to less than full-time status, or to materially, substantially and permanently (as opposed to temporarily) change or alter the duties or responsibilities or work year of any position represented by the Association, or if the Board exercises its authority to transfer or reassign any administrator, the Board shall notify all affected administrators and the Association in advance, preferably at least 30 days prior to implementation, except in emergency situations. Further, if any such Board action results in a material change in the duties of any bargaining unit position (other than a de minimus change) such material change in duties, salaries and other conditions of employment shall be subject to impact bargaining upon demand by the Association. Such impact bargaining shall be concluded as soon as possible following implementation.

## ARTICLE XIV REDUCTION OF ADMINISTRATIVE STAFF

Section 1. It is recognized that, under the Connecticut General Statutes, the Board of Education has the sole responsibility to maintain good public elementary and secondary schools and to implement the educational interests of the State of Connecticut. Recognizing also that it may become necessary to eliminate certified administrative positions in certain circumstances, this provision is adopted to provide a fair and orderly process in the event such eliminations become necessary.

Section 2. Prior to commencing action to terminate administrator contracts under this article, the Board of Education shall give due consideration to its ability to effectuate position eliminations and/or reductions in staff by voluntary retirements, transfers and terminations.

Section 3. Determination of administrators who are to be released shall be made within the following groupings of classifications, referred to as "Bands." It

is the intent of the parties that no administrator shall be "bumped" from one band to another.

1. High School Band: Principal; Assistant Principal; Department Head; Athletic Director
2. Middle School Band: Principal; Assistant Principal
3. Elementary School Band: Principal; Assistant Principal
4. Pupil Personnel Band: Director; Supervisor
5. Curriculum Band: Director; K-12 Coordinator

Section 4. In order to promote an orderly reduction in administrative personnel, the following procedure will be used:

1. Any administrator relieved of his /her duties because of a reduction in staff or elimination of position shall first be offered a vacancy, if one exists, in his/her classification for which he/she is certified and qualified.
2. If there is no such existing administrative opening in his/her classification, the displaced administrator shall be offered the position of the least senior administrator in his/her present classification, or if he/she is the least senior administrator in his/her classification, the position of the least senior employee in the band for which he/she is certified and qualified, and which does not have a higher wage than his current position.
3. If an administrator is relieved of his/her duties because of a reduction in staff or an elimination of position and another administrative position is not otherwise available as aforesaid, he/she will be offered a teaching position for which he/she is certified and qualified, subject to the Reduction in Force provisions of the teachers' collective bargaining agreement.
4. If an administrator is relieved of his/her duties because of a reduction in staff or an elimination of position and employed as a teacher, he/she will be given experience credit on the salary schedule according to the teacher contract for his/her administrative and teaching experience and shall retain all accumulated sick leave.
5. In the event an administrator is displaced to an administrative classification or teaching position with a salary schedule lower than that which the displaced administrator previously enjoyed, such displaced administrator's salary shall not be reduced for a period of one (1) year, provided that he/she agrees that the Superintendent shall have the right to

assign such displaced administrator, during such one (1) year period, to as many additional days of certified employment as may be represented by the difference between his/her previous work year (if longer than his/her current work year) and his/her current work year.

Section 5. Notwithstanding anything herein to the contrary, nothing herein shall require the promotion of an administrator to a position of higher rank, authority or compensation, although the administrator whose contract is terminated because of elimination of position or reduction in force may be qualified and/or certified for the promotional position.

Section 6. Any and all terminations of employment of members of the bargaining unit shall take place solely and exclusively under applicable provisions of §10-151 of the Connecticut General Statutes. No such termination shall in any way be the subject of a grievance proceeding under the grievance procedures set forth elsewhere in this Agreement.

Section 7. If the contract of employment of an administrator is terminated because of elimination of position, the name of that administrator shall be placed on a reappointment list and remain on such list for a period of two (2) years, for his/her former position, or another similar administrative position of comparable pay and shall remain thereon until reappointed (within such two (2) year period) provided such administrator does not refuse a reappointment. Administrators shall be recalled to positions for which they are certified and qualified according to their administrative seniority in the Groton School System. If a reappointment is offered consistent with the above and is refused by the administrator, his/her name shall be removed from the reappointment list.

Section 8. For purposes of this Article, and in particular Section 4 and Section 7 hereof, "seniority" shall be defined as the total period of years of service in any or all administrative or supervisory positions held by the administrator in the Groton School District.

## ARTICLE XV STARTING SALARIES

Section 1. Initial placement of an administrator who is new to the Groton administrators' bargaining unit shall be made within the range of his position at the discretion of the Superintendent.

Section 2. The starting salary range of all administrative positions shall be from ten (10%) percent below the salary level of each position (minimum) to ten (10%) percent above the salary level of each such position (maximum), as described in Appendix A on a year-to-year basis. In no case, however, shall a new assistant principal be paid at a starting salary within \$1,000 of the contract salary of his /her principal. And in no case shall a Groton employee who is

Grade 6

Period	A	B
1	Core 1	Core 3
2	EX 1	EX 3
3	EX 2	Core 4
4	Core 2	Core 5

Grade 7

Period	A	B
1	Ex 1	Ex 2
2	Core 1	Ex 3
3	Core 2	Core 4
4	Core 3	Core 5

## Grade 8

Core 1	Core 3
Core 2	Core 4
Core 3	EX 2
EX 1	EX 3

Hours per year: 123

 $\frac{1}{2}$  year courses: 61

Schedule BY Block

Time	Grade	A	B
PERIOD 1	6 <sup>th</sup>	Core- 1	Core - 3
	7 <sup>th</sup>	EX 1	EX 2
	8 <sup>th</sup>	Core - 1	Core - 4
PERIOD 2	6 <sup>th</sup>	EX 1	EX - 3
	7 <sup>th</sup>	Core 1	Ex 3
	8 <sup>th</sup>	Core 2	Core - 5
PERIOD 3	6 <sup>th</sup>	EX - 2	Core - 4
	7 <sup>th</sup>	CORE - 2	CORE - 4
	8 <sup>th</sup>	CORE -3	Ex 2
PERIOD 4	6 <sup>th</sup>	CORE-2	CORE - 5
	7 <sup>th</sup>	CORE -3	Core – 5
	8 <sup>th</sup>	Ex- 1	Ex-3

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### Staffing

### Core

	LA	Math	SS	SCI	WL
6	3	3	3	3	3
7	3	3	3	3	3
8	3	3	3	3	3

### Exploratory

ART	STEM	Design	PE	Health	BAND/ Strings	Music/Chorus
2	2	2	5	2	3	2

### SRBI

SRBI LA- FT	SRBI Math- FT	Tutor- LA	Tutor- MA
2	2	2	2

### Special Education

6	7	8	ABA	Academy	Multi Dis
4	4	3	1	2	1

Fall 2019 Planning Timeline (updated 10/27/19 9/18/19)

Date	Task	Staff	Status (date due)
Sept. 9	Peter and Jeff notified each school of an upcoming school leadership meeting at which a list of Transition Topics would be developed. The topics would then be shared with Dr. Graner as we prepare to establish a 2020 Transition Team, which will include members from both schools. We will be looking for volunteers to join the Transition Team or one if its likely subcommittees in the near future. The Transition Team will meet multiple times after school this year to work on a successful transition to Groton Middle School.	Peter and Jeff	
Sept. 12	Staffing meeting to determine needed FTE's for consolidated middle school.. begin rough draft of staffing needs.	Mike Graner, Ken Knight, Laurie LePine and Susan Austin	
Sept. 13	Mike Graner met with LEARN Executive Director and Assistant Director to confer regarding theme for consolidated middle school. The federal education officials will determine if the school can pursue a STEAM theme to ensure thorough socio-economic diversity. The decision is pending at the USDE.		
Sept. 20	Planning meeting: Peter, Jeff, Susan and Mike		
Sept. 26	During the week, the transition team members from West Side and Cutler meet in the central office to identify planning chores and organize work into subcommittees. Topics for subcommittee work may include the following: <ul style="list-style-type: none"> <li>② Sports</li> <li>② School rules and regulations</li> <li>② Scheduling</li> <li>② Operating systems, eg. Duty assignments</li> <li>② Joint Middle School handbook</li> <li>② Parent, student involvement initiatives.</li> <li>② School colors, mascots, etc.</li> <li>② Organization structure of the school</li> </ul>		



	<p>② Team building activities</p> <p>② Closure/celebration procedures at each middle school</p>		
Sept 26	GEA leadership, the middle school principals and central office administration meet to draft specific staffing plan and identify potential RIF procedures.		
Sept. 27	EXPECT Team meeting		
Oct. 4	Tech dept and middle school principals meet to develop schedule		
Oct. 7	Ben Strouse, Kevin Mazarella, Clare dePeter Powers, M.S. Coordinators, middle school principals meet to clarify schedule requirements with tech dept.		
Oct. 7	<p>Begin exploration of possible early retirement incentive that would be in effect for June 30, 2019. Mike Graner will begin discussion with the Board of Education and then contact the GEA leadership for further negotiations.</p> <p>Determine the availability of Michael Alves to support demographic study of Groton to support creation of diversified teams at the middle school and balanced schools at the new elementary schools.</p> <p>Begin work on middle school schedule to align with MYP parameters.</p>		
Oct. 11	EXPECT Team meeting		
	Include Charles Barnum School in consideration as a magnet school; share recommendation with the Board of Education re: Charles Barnum School as magnet		
Oct. 18	Planning meeting: Peter, Jeff, Susan and Mike		
Oct. 25	EXPECT Team meeting		
Nov. 1	Planning meeting: Peter, Jeff, Susan and Mike		
Nov. 8	EXPECT Team meeting		
Nov. 15	no meeting CABA		
Nov. 22	EXPECT Team meeting		