

Regulations of Connecticut State Agencies

TITLE 10. Education and Culture

Agency

State Board of Education

Subject

Procedures to Implement Section 10-4b of the Connecticut General Statutes as Amended by P.A. 79-128 Section 14

Inclusive Sections

§§ 10-4b-1—10-4b-10

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Procedures to Implement Section 10-4b of the Connecticut General Statutes as Amended by P.A. 79-128 Section 14

Sec. 10-4b-1. Definitions

For the purposes of these regulations:

- (a) “Commissioner” means the Commissioner of Education;
- (b) “Complaint” means a written document which complies with the requirements of Section 10-4b-3 of these regulations;
- (c) “Substantial complaint” means a complaint that sets forth basic facts which state a cause of action concerning an alleged violation of the educational interests of the state;
- (d) “Educational interests of the state” means those defined in Section 10-4a of the General Statutes as amended by Section 10 of Public Act 79-128;
- (e) “Board” means the State Board of Education;
- (f) “Board of education” means a local or regional board of education;
- (g) “Complainant” means the individual(s) or the Board alleging in a complaint that a board of education has failed or is unable to implement the educational interests of the state;
- (h) “Respondent” means (1) the board of education against which a complaint has been filed; and
(2) a local governmental body upon the finding by the Board pursuant to Section 10-4b-8 of these regulations that there is reasonable cause to believe that a local governmental body or its agent may be responsible for the failure or inability of a board of education;
- (i) “Parties” means (1) the complainant;
(2) the respondent; and
(3) the Commissioner upon the finding by the Board pursuant to Section 10-4b-8 of these regulations that there is reasonable cause to believe that a board of education has failed or is unable to make reasonable provisions to implement the educational interests of the state;
- (j) “Response” means a written reply by a respondent to a substantial complaint;
- (k) “Days” means business days, which shall include all days of the week except Saturday, Sunday, and legal holidays defined pursuant to Section 1-4 of the General Statutes;
- (l) “Completion of the inquiry” means the close of evidence;
- (m) “Remedial Process” means a planned and systematic good faith effort by a board of education through which compliance with a finding of failure or inability to implement the educational interests of the state may be attained; and
- (n) “Eligible person” means a resident, 18 years of age or over, of a local or regional school district, or a parent or guardian of a student enrolled in the public schools.

(Effective April 7, 1980)

Sec. 10-4b-2. Designee and agent of the board

The Commissioner shall be the designee and agent of the Board for the purposes specified in section 10-4b of the General Statutes as amended by section 14 of P.A. 79-128 and these

regulations.

(Effective April 7, 1980)

Sec. 10-4b-3. Complaint

(a) When complaints may be brought.

(1) A 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 may file a written complaint with the Commissioner alleging the failure or inability of such board of education to implement the educational interests of the state.

(2) The Board may initiate a substantial complaint. Such complaint shall be subject to all the provisions of these regulations except Section 10-4b-5 concerning preliminary action by the Commissioner.

(b) Consolidation of complaints. Complaints involving related questions of law or fact may be consolidated at the direction of the Commissioner.

(c) Contents of the complaint. The complaint shall be in writing and signed by or on behalf of the complainant. A form shall be made available by the Commissioner for such complaint. The complaint shall contain the following information:

(1) Information indicating that the complainant is an eligible person;

(2) A description of prior good faith efforts to resolve the complaint with the board of education, which shall include information that shows that the board of education has taken final action adverse to the complaint or has refused or failed to take any final action relating to the complaint within a reasonable period of time;

(3) The exact nature of the allegations, including, but not limited to, reference to the provisions, of Section 10-4a of the General Statutes as amended by Section 10 of P.A. 79-128 which relate to each such allegation, and to other specific statutory provisions where the complainant alleges that a board of education has failed to comply with Subdivision (3) of Section 10-4a of the General Statutes as amended;

(4) A clear and concise description of the facts which support each allegation; and

(5) Other materials or documents containing information which support or clarify the allegations.

(Effective April 7, 1980)

Sec. 10-4b-4. Conference of the parties

In the interest of furthering the purpose of the process outlined in Section 10-4b of the General Statutes as amended by Section 14 of P.A. 79-128 and in these regulations, the Commissioner may, at any stage of the proceedings, call the parties together for a conference.

(Effective April 7, 1980)

Sec. 10-4b-5. Preliminary action

(a) **Acknowledge receipt; inform respondent.** The Commissioner shall, within five (5) days following receipt of a complaint, acknowledge receipt of the complaint in writing to the complainant and, for informational purposes only, send a copy of the complaint to the respondent.

(b) **Further information.** The Commissioner may submit to the complainant a request for further factual information concerning the complaint. Such a request for further information shall be made within five (5) days following receipt of the complaint by the Commissioner. Upon receipt of the additional information requested, the Commissioner shall, for informational purposes only, send a copy of such new information to the respondent.

(c) **Action by commissioner.** Within ten (10) days following acknowledgement of receipt of a complaint, or if further information is requested, within ten (10) days following receipt of the additional information, the Commissioner shall:

- (1) Dismiss the complaint if it is found not to be substantial; or
- (2) Order an investigation if the complaint is found to be substantial.

If the Commissioner dismisses the complaint, he shall state in writing to the parties, with a copy to each Board member, the reasons therefore.

(Effective April 7, 1980)

Sec. 10-4b-6. Investigation

(a) **Opportunity to respond.** Within five (5) days following an order for an investigation, the Commissioner shall notify the parties of such order and shall request the respondent to file a written response with the Commissioner or his representative within ten (10) days following the receipt of such request. The response shall contain

- (1) answers to each allegation of the complaint and
- (2) factual information supporting the answers.

(b) **Investigation.** Investigation of a complaint found to be substantial shall be conducted under the direction of the Commissioner and may include, but need not be limited to, telephone calls, site visits, written correspondence and informal meetings. Such investigation shall be completed within twenty (20) days following the receipt of the respondent's response.

(Effective April 7, 1980)

Sec. 10-4b-7. Report of investigation

(a) **Preliminary report to commissioner.** Within ten (10) days following the conclusion of the investigation, the individual or individuals conducting the investigation on behalf of the Commissioner shall submit in writing to the Commissioner the facts found as a result of the investigation, including facts relating to the responsibility of the local governmental body or its agent for the factual findings.

(b) **Commissioner's report.** No later than ten (10) days following receipt of the findings

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of fact, the Commissioner shall, as agent of the Board for purposes of the investigation in accordance with Section 10-4b of the General Statutes as amended by Section 14 of P.A. 79-128, submit to the Board his report of the results of such investigation. Such report shall include:

- (1) The findings of fact;
- (2) Whether, in the Commissioner's judgment, the facts indicate that reasonable cause exists to believe that the board of education has failed or is unable to make reasonable provision to implement the educational interests of the state and whether a local governmental body or its agent may be responsible for such failure or inability; and
- (3) Recommendations for action.

(Effective April 7, 1980)

Sec. 10-4b-8. Reasonable cause

Board action. Following receipt of a report from the Commissioner, the Board shall act at the first regularly scheduled Board meeting following submission of said report to the Board, provided that the Board may postpone said action until no later than the second regularly scheduled meeting following submission of said report to the Board if the report was not submitted to the Board on or before the eighth (8th) day prior to the first such regularly scheduled Board meeting. The Board shall:

- (1) Dismiss the complaint if the Board determines that the findings indicate that there is no reasonable cause to believe that a board of education has failed or is unable to make reasonable provisions to implement the educational interests of the state and indicate the reasons therefore; or
- (2) Order an inquiry if the findings indicate that there is reasonable cause to believe that a board of education has failed or is unable to make reasonable provisions to implement the educational interests of the state or that a local governmental body or its agent may be responsible for such failure or inability.

(Effective April 7, 1980)

Sec. 10-4b-9. Board Inquiry

(a) **Commissioner as party.** Upon ordering an inquiry pursuant to Section 10-4b-8 of these regulations, the Commissioner, if the Board is not already a party, shall be admitted to the proceedings as a party for the purpose of representing the educational interests of the state at the Board inquiry, provided that the Commissioner shall be limited for this purpose to presenting evidence or arguments relating to the allegations of the complaint or amended complaint.

(b) **Local governmental body as party.** Upon ordering an inquiry pursuant to Section 10-4b-8 of these regulations, if the findings indicate that a local governmental body or its agent may be responsible for the failure or inability of a board of education, the local governmental body shall be named as a respondent for purposes of the Board inquiry.

(c) **Time and place for inquiry; notice.** The Board shall set a time and place for the

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inquiry and give reasonable notice to the parties.

(d) **Hearing panel.** The chairperson of the Board may designate a subcommittee of three members of the Board to serve as a hearing panel.

(e) **Amended complaint; response.** Any complaint may be amended to include additional information relating to the allegations therein with the permission of the Board or hearing panel. The respondent shall have the right to file a response to the amended complaint within ten (10) days or within such other time as the Board or said hearing panel may prescribe.

(f) **Report of hearing panel.** If a hearing panel conducts the inquiry pursuant to Subsection (d) of this section of the regulations, such hearing panel shall complete and submit a report to the Board within ten (10) days following the close of evidence and filing of briefs, if any, in such proceeding. The report of the hearing panel shall include:

- (1) its conclusions of law and fact upon which its proposed decision is based; and
- (2) its proposed decision.

(g) **Form of hearing.** The inquiry shall be conducted by the Board or a designated subcommittee in accordance with the Uniform Administrative Procedures Act, Section 4-177 through 4-184, inclusive, of the General Statutes, provided the inquiry shall be completed within thirty (30) days following the order of an inquiry, and provided further that the Board shall render a final decision in accordance with the time limit specified in Subsection (h) of this section of the regulations.

(h) **Final decision.** The Board shall render a final decision in accordance with the provisions of Section 4-179 and Section 4-180 of the General Statutes, provided such decision shall be rendered

- (1) no later than twenty-five (25) days following the submission of a report by the hearing panel if a hearing panel conducts the inquiry or
- (2) at the next regularly scheduled Board meeting following the close of evidence and filing of briefs if the Board conducts the inquiry, provided that the Board may postpone said action until no later than the second regularly scheduled meeting following the close of evidence and filing of briefs if said inquiry was not completed and/or briefs filed on or before the eighth (8th) day prior to the first such regularly scheduled Board meeting.

(Effective April 7, 1980)

Sec. 10-4b-10. Action by board

(a) **No failure or inability.** If the Board determines that the board of education has not failed or is not unable to make reasonable provision to implement the educational interests of the state, the Board shall so state its findings in writing to the parties.

(b) **Failure or inability.** If the Board finds that the board of education has failed or is unable to make reasonable provision to implement the educational interests of the state, the Board shall:

- (1) Require that the board of education engage in a remedial process to develop and implement a plan of action through which compliance may be attained. Upon request of

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the board of education, the Board shall advise and assist the board of education in such remedial process. The plan shall include, but not be limited, to, the following:

(A) A statement of the specific steps that will be undertaken to remedy the failure or inability;

(B) A detailed time-table of the expected dates for compliance with each step described in the plan of action; and

(C) An evaluation process to determine achievement of each step described in the plan of action which shall include, but not be limited to, a schedule of periodic reports to the Board as to the progress of the board of education in meeting the requirements of the plan; or

(2) Order the local or regional board to take reasonable steps to implement the mandates of Section 10-4a (3) of the General Statutes where it is found that such local or regional board has failed to comply with those mandates.

(c) **Local governmental body or its agent responsible.** If the Board finds that a local governmental body or its agent is responsible for such failure or inability of the board of education to make reasonable provision to implement the educational interests of the state, the Board may order, in accordance with Subsection (b) of Section 10-4b of the General Statutes as amended by Section 14 of Public Act 79-128, such governmental body or its agent to take reasonable steps to comply with the provisions of Section 10-4a of the General Statutes, as amended by Section 10 of Public Act 79-128.

(d) **State responsible.** If the Board finds that the state is responsible for the failure or inability of the board of education to make reasonable provision to implement the educational interests of the state, the Board shall so notify the Governor and the General Assembly.

(e) **Time period for compliance.** For purposes of this section, the Board shall determine a time period for compliance with the requirement or order of the Board. A board of education or a local governmental body or its agent may request, in writing, that the Board, for due and sufficient cause, grant an extension of the time period for compliance and the Board may, thereafter, grant such extension.

(f) **Termination.** Upon compliance with the requirement or order of the Board, a board of education or a local governmental body or its agent may request a determination by the Board that such requirement or order be terminated.

(Effective April 7, 1980)