

**Memorandum**

TO• Jeanne Allen  
FROM• Kevin P. Chavous  
DATE• May 23, 2007  
RE• Charter School Statutory Violations--factual information needed

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The following memorandum outlines the factual information needed regarding charter schools in order to allege violations of state statues in Connecticut, Missouri, and Georgia. I will set up a call for us to discuss this memorandum in more detail sometime next week.

**CONNECTICUT**

In Connecticut, charter schools are statutorily categorized as either a local charter school or a state charter school.<sup>1</sup> *See* Conn. Gen. Stat. § 10-66ee(a). Students enrolled in **local charter schools** are considered “students enrolled in the school district in which such student resides.” *Id.* Students enrolled in **state charter schools** are **not** considered students enrolled in the school district in which the student resides. *Id.* Therefore, the factual information required to prove non-compliance with Connecticut General Statutes regarding charter school funding, differs depending on the statutory categorization of the charter school.

To prove a statutory violation to funding **local charter schools**, we must show that the local board of education of the school district where a student resides paid less for each student than is required under the schools charter. *See* Conn. Gen. Stat. § 10-66ee(b). This means that in order to determine whether a statutory violation has occurred, we must examine the charter of each local charter school.

To prove a statutory violation to funding **state charter schools**, we must show that the state has paid less than eight thousand dollars for each student enrolled. *See* Conn. Gen. Stat. § 10-66ee(c).

**CER:** We believe this last paragraph overlooks the central concern/issue regarding funding public schools in the state. Local funds are part of the state’s commitment to public education.

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<sup>1</sup> **NOTE:** There is proposed legislation in the Connecticut General Assembly that would eliminate the differential treatment between local charter schools and state charter schools. *See* S. B. No. 1405, 2007 Gen. Assem., Jan. Sess. (Ct. 2007). The proposed legislations, slated to become effective July 1, 2007, would require the state to pay eight thousand dollars for each student enrolled in a charter school. *Id.* There would be no requirement for local boards of education to fund charter schools. *Id.* Further, if the new legislation becomes law, charter school students would not be considered “students enrolled in the school district in which such student resides.” *Id.*

All public schools in the state – except charters authorized by the state- receive an additional \$3k-\$5k per student from local revenues, or from local subsidies.

We need to make the argument in this state from a different vantage point – and it has nothing to do with federal funds. Charters are defined as public schools. The legislature’s actions to fund these schools differently is inequitable, particularly as these schools educate mostly poor and minority students.

If neither of the above can be shown, it may be possible to prove a statutory violation if a charter school (state or local) does not receive any federal funds that are available for students attending public schools. See Conn. Gen. Stat. § 10-66ee(i).

### MISSOURI

In Missouri, the Department of Elementary and Secondary Education calculates and distributes to each school district the amount of state aid the district is qualified to receive. See Mo. Rev. Stat. § 163.031. The school district is then required to pay to the charter schools a specified amount. See Mo. Rev. Stat. § 160.415(2)(1). This amount is calculated by the following formula:

- ✓ the charter school’s weighted average daily attendance  
(multiplied by)
- ✓ the state adequacy target  
(multiplied by)
- ✓ the dollar value modifier for the district  
(added to)
- ✓ local tax revenues per weighted average daily attendance from the incidental and teachers’ fund in excess of the performance levy  
(plus)
- ✓ all other state aid attributable to students attending a charter school.

See Mo. Rev. Stat. § 160.415(2)(1). The district must also pay to the charter school any other federal or state aid that the district receives on account of a student that attends a charter school. See Mo. Rev. Stat. § 160.415(2)(2).

Any charter school that has declared itself a “local educational agency” receives funding by the same formula set out above, except the payment made to the school district is reduced by the amount specified by the formula, and paid directly to the charter school. See Mo. Rev. Stat. § 160.415(4).

Therefore, in order to prove a statutory violation, we would have to show that a *school district* which has a student(s) in a charter school (not declared a local educational agency) has not paid the charter school in accordance to the formula set forth above. To prove a violation of

the statute with regards to a “local educational agency,” we would have to show that the *state’s* payments to the charter school was not in accordance with the formula.

**CER:** The formula is not the issue. The issue is how the state implements the formula to the detriment of charter schools. WE disagree that you have to show that a school district receives fund outside of the formula to find a violation. The violation that exists (for which we have proof) is that the the state requires 100% of all state and local monies to follow charter students but district funds are not properly disbursed, even after the new formula was created. This is partly because the formula has become so complex and there are few people who carry authority for school finance that have been compelled to account for a nearly \$2,000 discrepancy.

Because Missouri has a “catch-all” provision, we may be able to prove that a charter school does not receive the statutorily allotted funding if we can show that a school district receives state funds outside of the formula for charter students, and that the district has not re-allocating those funds to the charter schools.

## GEORGIA

Georgia schools are funded approximately 50% by the state, 42% locally, and 8% federally. The state funds are calculated using the Quality Basic Education (“QBE”) formula, which consists of QBE earnings (+) categorical grants (+) equalization. In order to determine whether a local school system or the state of Georgia violated any statutory provision regulating charter school funding, we must first determine whether the charter school is a conversion, start-up, or state chartered special school.<sup>1</sup> Georgia funds charter schools differently depending on the type of school. For purposes of funding, statutes refer to conversion and start-up charters, collectively, as “local charter schools.” *See* Ga. Code Ann §§ 20-2-2062(7).

The law requires that the local board and the state board treat local charter schools and state chartered special schools no less favorably than other local schools. *See* Ga. Code Ann. § 20-2-2068.1(a). This means that in order to prove that charter schools have not received the proper funding, we need to know the amount of: (1) QBE formula earnings; (2) applicable QBE grants; (3) applicable nonQBE state grants; and (4) federal grants that each local charter earned, *and* show that the amount earned was significantly more that the amount that was actually dispersed to the charters by the local board. This funding system applies to all charter schools, therefore if we find that any charter school fails the above test, we have a statutory violation. If we do not however, we can still allege statutory violations for specific types of charter schools.

**CER:** In Georgia, the school boards have exercised too much discretion over local funds, such that wide variations in exist across the state. WE have the information noted above (for all states) and the reality is that most of the charters are not being treated favorably. This is well-documented.

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<sup>1</sup> A “conversion” charter school is a charter school that existed as a local school prior to becoming a charter school. Conversely, a “start-up” charter school is a charter school that did not exist as a local school prior to becoming a charter school. A “state chartered special school” means a charter school created as a special school that is operating under the terms of a charter between the charter petitioner and the state board. *See* Ga. Code Ann §§ 20-2-2062(4), (14), (16).

For **conversion charter schools**, we would also need to know how local revenue is allocated for other local schools in the school system, and how local revenue is allocated to a local charter school. The law requires the local revenue to be allocated on the same basis, therefore if local school systems allocate local revenue on a different basis for conversion charters than for other local schools, we may have a claim for statutory violation. *See* Ga. Code Ann. § 20-2-2068.1(c).

For **start-up charter schools**, however, the statute has another formula which calculates the amount of local revenues a start-up receives. Therefore, we would need to know the total amount of state and local five mill share funds earned by students enrolled in the local start-up, and the total amount of state and local five mill share funds earned by all students in the public schools, including any charter schools, in order to determine whether there may be a statutory violation. *See* Ga. Code Ann. § 20-2-2068.1(c).

For **state chartered special schools**, we need to know whether the voters of the local school system have approved the use of revenue from local tax levies to support the state chartered special school. If the voters have not approved the use of local tax levies, then there is no statutory violation. There is only a statutory violation if the voters approved the use of local tax levies, and the local school system failed to allocate those resources to the charter schools in the local system.

#### **CER Analysis/Conclusions:**

**School Finance:** CER has worked with school finance specialist Larry Maloney who has documented in detail the formulas and finance trends in each state. Your firm would not need to do any additional analysis to review the details and begin making arguments about the inequities in each state.

**Charter Laws:** CER has already studied in depth the charter laws of each state and has provided to the firm many of the details outlined above. We would not have to do any further research to document what the laws say.

**Charter law implementation:** We also have evidence from numerous schools about the degree to which the laws have negatively influenced their operations.

**Legal Issues:** We need to be ready no later than September to develop arguments and seek plaintiffs. Our schedule is unmovable at this time. We need to ascertain immediately the degree to which Sonnenschein is willing to support these cases under the circumstances described and aggressively to try the issues concerning deliberate inequities in school funding.