

Connecticut Attorney General Opinion No. 1990-14

April 19, 1990

Senator John B. Larson
President Pro Tempore
State Capitol
Hartford, CT 06106

Representative Richard J. Balducci
Speaker of the House
State Capitol
Hartford, CT 06106

Dear Senator Larson and Representative Balducci:

Thank you for your letter dated January 25, 1990 seeking the advice of this Office regarding the implementation of Section 6(d) of Public Act 89-355.

Section 6 of Public Act 89-355 shifts a portion of the cost of providing health and welfare services to children attending private nonprofit schools from the towns in which those schools are located to the towns and school districts in which those children would otherwise be attending school or, in the case of children who are not residents of this state, to the private school. Under the law the town in which the private nonprofit school is located provides the services to these children. The law then allows the provider town to seek reimbursement from other towns or from the private school for a portion of the cost of the services provided to children who would not otherwise be the responsibility of that town because they are residents of another town or of another state. The questions which you pose relate to the remedies available to a town which provides services to children who are residents of another town to enforce the other town's obligation to

reimburse the provider town. Your questions are answered in order.

Question 1

“If a town or school district chooses to notify another town or school district of payment due for the average unreimbursed costs of having provided statutory health and welfare services for the prior fiscal year, what obligation does the town or school district so notified have to make payment and how timely must such payment be?”

Section 6(d) of Public Act 89-355 imposes a statutory obligation on the town or school district which receives notice of a claim for reimbursement to pay that claim so long as the amount claimed has been computed in accordance with the formula described in Section 6(d). Neither Conn. Gen. Stat. e10-17a nor the amendment to that statute found in Section 6 of P.A. 89-355 establish any deadline date before which the town or school district notified of a claim for reimbursement must pay this claim. Likewise we are unable to identify any other provision of the General Statutes which would control. Under these circumstances we believe that the law should be construed to require payment within a “reasonable” period of time after the demand has been made. See 60 Am. Jur. 2d, Payment, e 10.

Question 2

“Failing to receive such payment, what recourse does the town or school district giving such notice have to collect the payment due?”

If payment is not made within a reasonable period of time after demand, the demanding town or school district has a judicially cognizable cause of action against the notified town or school district to enforce that town or district’s statutory obligation. Once the debt has been confirmed by the Court the normal judicial procedures for collecting money due

would be available to the demanding town or district. Each town or school district should consult with the town attorney to determine the proper process and procedure which must be followed.

Question 3

“What recourse does the state have to (a) enforce the collection of payments due or (b) penalize the failure to make such payments?”

Section 6 of Public Act 89-355 clearly contemplates that the adjustments which must be made under that amendment will be made between the affected towns and school districts. We see no indication in the amendment or in any other provision of law which would give the executive branch of state government the authority to enforce the collection of payments due or impose a penalty for failure to make such payments. Obviously the courts will play a role in the event that a town or school district finds it necessary to pursue remedies through that forum.

We hope this letter fully addresses your questions.

Very truly yours,

CLARINE NARDI RIDDLE
ATTORNEY GENERAL

John R. Whelan
Assistant Attorney General

CNR/JRW/mu