

Committee Members

John L. Foley, Chairman
Molly O. McCullough, Vice-Chairman
Donna M. Colorio

Administrative
Representatives
Brian Allen

OFFICE OF THE
CLERK OF THE SCHOOL COMMITTEE
WORCESTER PUBLIC SCHOOLS
20 IRVING STREET
WORCESTER, MA 01609

AGENDA #3

The Standing Committee on FINANCE AND OPERATIONS will hold a meeting:

on: Monday, December 12, 2016
at: 5:30 p.m.
in: Room 410, Durkin Administration Building

gb #5-157 - Ms. Novick/Mr. O'Connell/Mr. Foley/Mr. Monfredo/Miss Ramirez (May 27, 2015)

Annex A (1 page)

Request administration update the School Committee regarding FY15 capital spending, including MSBA reimbursements.

gb #5-172 - Mr. Foley/Mr. O'Connell/Mr. Monfredo/Ms. Novick/Miss Biancheria (June 22, 2015)

Annex A (1 page)

To review the status of the FY16 Budget and make appropriate transfers as required.

gb #6-281 - Mr. O'Connell/Mr. Monfredo/Miss McCullough/Miss Biancheria (August 10, 2016)

Annex A (1 page)
Annex B (1 pages)

To implement the provisions of the November 1995 letter of the Commissioner of Education, and the Advisory on School Governance which accompanied it, that "the school committee remains the body responsible for approving and transmitting school department expenditures to the municipal accountant for the drawing of warrants. The Department of Revenue's Division of Local Services has advised that all school department bills must be approved by the school committee. When the superintendent, or principal and superintendent, have statutory authority to incur expense, the Department of Revenue advises that the bills must be approved by them as well as by the committee."

gb #6-294 - Administration (August 22, 2016)

Annex A (2 page)
Annex B (1 page)

To review the status of the FY17 Budget and make appropriate transfers as required.

ITEM: gb #5-157

STANDING COMMITTEE: **FINANCE AND OPERATIONS**

DATE OF MEETING: Monday, December 12, 2016

ITEM: Ms. Novick/Mr. O'Connell/Mr. Foley/Mr. Monfredo/Miss Ramirez
(May 27, 2015)

Request administration update the School Committee regarding FY15 capital spending, including MSBA reimbursements.

PRIOR ACTION:

6-4-15 - Referred to the Standing Committee on Finance and Operations. Mayor Petty stated that if there is any extra funding that we look at the May Street School gym.

BACKUP:

Annex A (1 page) contains a copy of the Administration's response to the item.

The City of Worcester annually provides the Worcester Public Schools with \$3 million for building rehabilitation projects. Since 2012 the funds have been used almost entirely to fund the city's share (approximately 20%) of Accelerated Repair Projects (windows, doors, and boiler replacements) through the Massachusetts School Building Authority (MSBA). To date, these funds have leveraged almost \$44 million in building improvements at seventeen school locations, primarily window replacement projects.

A summary of the work completed to date is as follows:

2012 Approved Projects	Total Budget	District Share	MSBA	Source:
Chandler Magnet	\$ 3,708,855	\$ (137,629)	\$ 3,846,484	Final Grant Letter 11/30/15
Jacob Hiatt	\$ 437,406	\$ 128,926	\$ 308,480	Final Grant Letter 11/30/15
Lake View	\$ 1,071,047	\$ 278,785	\$ 792,262	Final Grant Letter 11/30/15
May Street	\$ 1,958,482	\$ 546,450	\$ 1,412,032	Final Grant Letter 11/30/15
New Citizens Center	\$ 1,258,859	\$ 299,103	\$ 959,756	Final Grant Letter 11/30/15
	<u>\$ 8,434,649</u>	<u>\$ 1,115,635</u>	<u>\$ 7,319,014</u>	
2013 Approved Projects				
Columbus Park	\$ 2,467,367	\$ 948,841	\$ 1,518,526	Project Funding Agreement 1/14/15
Tatnuck Magnet	\$ 2,038,196	\$ 618,212	\$ 1,419,984	Project Funding Agreement 9/3/14
Worcester East Middle	\$ 2,865,498	\$ 1,463,422	\$ 1,402,076	Project Funding Agreement 9/3/14
Worcester Arts Magnet	\$ 1,801,521	\$ 618,338	\$ 1,183,183	Project Funding Agreement 9/2/14
	<u>\$ 9,172,582</u>	<u>\$ 3,648,813</u>	<u>\$ 5,523,769</u>	
2014 Approved Projects				
Goddard Elementary	\$ 5,494,557	\$ 2,470,009	\$ 3,024,548	Project Funding Agreement 6/12/15
Union Hill School	\$ 2,520,957	\$ 936,835	\$ 1,584,122	Project Funding Agreement 6/12/15
West Tatnuck	\$ 2,395,045	\$ 1,191,634	\$ 1,203,411	Project Funding Agreement 6/12/15
Clark Street	\$ 2,505,511	\$ 1,051,266	\$ 1,454,245	Project Funding Agreement 6/12/15
	<u>\$ 12,916,070</u>	<u>\$ 5,649,744</u>	<u>\$ 7,266,326</u>	
2015 Approved Projects				
Jacob Hiatt	\$ 2,334,988	\$ 712,126	\$ 1,622,862	Project Funding Agreement 5/13/16
Flagg Street	\$ 4,336,844	\$ 1,118,433	\$ 3,218,411	Project Funding Agreement 5/13/16
McGrath Elementary	\$ 1,812,614	\$ 613,639	\$ 1,198,975	Project Funding Agreement 5/13/16
Grafton Street	\$ 4,569,125	\$ 1,192,411	\$ 3,376,714	Project Funding Agreement 5/13/16
	<u>\$ 13,053,571</u>	<u>\$ 3,636,609</u>	<u>\$ 9,416,962</u>	
TOTAL ALL YEARS	\$ 43,576,872	\$ 14,050,801	\$ 29,526,071	

Any of the funds that have not been allocated to Accelerated Repair projects have been used to provide other rehabilitation projects, notably the replacement of the rooftop unit at the Jacob Hiatt Magnet School.

The Administration works closely with City of Worcester DPW on all of the project details and with the Budget Office of the use of the allocated building rehabilitation funds and any corresponding balances.

The MSBA Accelerated Repair Program has been very successful to date and other projects will be forwarded for consideration and review in the upcoming years. In the meantime, the district has begun a comprehensive facilities master plan project that will guide district decisions around building projects beginning in 2018.

STANDING COMMITTEE: FINANCE AND OPERATIONS

DATE OF MEETING: Monday, December 12, 2016

ITEM: Mr. Foley/Mr. O’Connell/Mr. Monfredo/Ms. Novick/Miss Biancheria
(June 22, 2015)

To review the status of the FY16 Budget and make appropriate transfers as required.

PRIOR ACTION:

- 7-23-15 - Referred to the Standing Committee on Finance and Operations.
- 11-16-15 - **STANDING COMMITTEE ON FINANCE AND OPERATIONS**
Ms. Novick and Mr. Foley made the following motion:
Request that the Administration ask the City Manager for assistance with the \$500,000 deficit caused by the Charter School reimbursement reduction, recognizing fully the financial issues that the City is facing.
On a voice vote, the motion was approved.
Ms. Novick made the following motion:
Request that the Joint Committee of the Standing Committee on Finance and Operations and the City Council’s Standing Committee on Education discuss the need for more than a total of \$500,000 for all capital projects in the Worcester Public Schools.
On a voice vote, the motion was approved.
It was moved to approve the following transfers:

Amount	From Account	From Title	To Account	To Title
\$700,000	500-91119	Instructional Assistant Salaries	500130-92000	Personal Services
\$188,000	500-91120	Maintenance Salaries	540103-92000	Transportation OM
\$322,000	500-91111	Teacher Salaries	500129-96000	Workers Compensation
\$185,000	500-91111	Teacher Salaries	500137-96000	Unemployment Compensation

On a roll call of 3-0, the motion was approved.
HOLD.

BACKUP:

Annex A (1 page) contains a copy of the FY16 Budget Account Summary Final Report.

PRIOR ACTION (continued)

11-19-15 - SCHOOL COMMITTEE MEETING - The School Committee approved the action sheet as amended.

Ms. Novick and Mr. Foley made the following motion:

Request that the Administration ask the City Manager for assistance with the \$500,000 deficit caused by the Charter School reimbursement reduction, recognizing fully the financial issues that the City is facing.

On a voice vote, the motion was approved.

Ms. Novick made the following motion:

Request that the Joint Committee of the Standing Committee on Finance and Operations and the City Council's Standing Committee on Education discuss the need for more than a total of \$500,000 for all capital projects in the Worcester Public Schools.

On a voice vote, the motion was approved.

It was moved to approve the following transfers:

Amount	From Account	From Title	To Account	To Title
\$700,000	500-91119	Instructional Assistant Salaries	500130-92000	Personal Services
\$188,000	500-91120	Maintenance Salaries	540103-92000	Transportation OM
\$322,000	500-91111	Teacher Salaries	500129-96000	Workers Compensation
\$185,000	500-91111	Teacher Salaries	500137-96000	Unemployment Compensation

On a roll call of 7-0, the motion was approved.

HOLD.

2-29-16 - STANDING COMMITTEE ON FINANCE AND OPERATIONS

It was moved to approve the following transfers to balance deficit accounts through the Second Quarter of the fiscal year and provide funding for the recommended spending:

Amount	From Account	Account Title	To Account	Account Title
\$700,000	500-91111	Teacher Salaries	500-92204	Instructional Materials
\$93,000	500-91111	Teacher Salaries	500I 36SS-92000	Misc Ed. OM - School Safety
\$10,000	500-91111	Teacher Salaries	500136SN-92000	Misc Ed OM - School Nurse
\$300,000	500-91111	Teacher Salaries	500152-92000	Facilities OM
\$220,000	500-91119	Custodial Salaries	500-97203	Custodial Overtime
\$40,000	500-911123	Non-Instructional Salaries	500-97204	Maintenance Overtime
\$100,000	500-91123	Non-Instructional Salaries	540103-97201	Transport Overtime

On a roll call of 3-0, the motion was approved.

PRIOR ACTION (continued)

- 3-3-16 - SCHOOL COMMITTEE MEETING - The School Committee approved the action sheet as amended. It was moved to approve the following transfers to balance deficit accounts through the Second Quarter of the fiscal year and provide funding for the recommended spending:

Amount	From Account	Account Title	To Account	Account Title
\$700,000	500-91111	Teacher Salaries	500-92204	Instructional Materials
\$93,000	500-91111	Teacher Salaries	500I 36SS-92000	Misc Ed. OM - School Safety
\$10,000	500-91111	Teacher Salaries	500I36SN-92000	Misc Ed OM - School Nurse
\$300,000	500-91111	Teacher Salaries	500152-92000	Facilities OM
\$220,000	500-91119	Custodial Salaries	500-97203	Custodial Overtime
\$40,000	500-911123	Non-Instructional Salaries	500-97204	Maintenance Overtime
\$100,000	500-91123	Non-Instructional Salaries	540103-97201	Transport Overtime

- 5-9-16 - On a roll call of 7-0, the motion was approved.
STANDING COMMITTEE ON FINANCE AND OPERATIONS
It was moved to approve the following transfers to balance deficit accounts through the Third Quarter of the fiscal year and provide funding for the recommended spending:

Amount	From Account	Account Title	To Account	Account Title
\$100,000	500-91 119	Custodial Salaries	500-97203	Custodial Overtime
\$100,000	500141-92000	Vehicle Maintenance	500152-92000	Facilities OM
\$200,000	540-9111 7	Transportation Salaries	540103-92000	Transportation

On a roll call of 3-0, the motion was approved.

- 6-2-16 - SCHOOL COMMITTEE MEETING - The School Committee approved the action of the Standing Committee as amended. It was moved to approve the following transfers to balance deficit accounts through the Third Quarter of the fiscal year and provide funding for the recommended spending:

Amount	From Account	Account Title	To Account	Account Title
\$100,000	500-91 119	Custodial Salaries	500-97203	Custodial Overtime
\$100,000	500141-92000	Vehicle Maintenance	500152-92000	Facilities OM
\$200,000	540-9111 7	Transportation Salaries	540103-92000	Transportation

On a roll call of 7-0, the motion was approved.

**WORCESTER PUBLIC SCHOOLS
 2015-2016 BUDGET
 ACCOUNT SUMMARY
 FINAL REPORT**

<u>Account</u>	<u>Account Title</u>	<u>Adopted</u>	<u>Expended</u>	<u>Balance</u>
500-91110	Administration Salaries	\$11,847,977	\$11,790,360	\$57,616
500-91111	Teacher Salaries	\$157,271,088	\$154,832,647	\$2,438,441
500-91112	School Committee Salaries	\$87,000	\$73,722	\$13,278
500-91114	Day by Day Substitutes Salaries	\$871,200	\$1,020,065	-\$148,865
500-91115	Instructional Assistants Salaries	\$10,399,903	\$9,793,491	\$606,412
500-91116	Coach Salaries	\$524,362	\$556,014	-\$31,652
540-91117	Transportation Salaries	\$2,675,672	\$2,525,670	\$150,002
500-91118	Supplemental Program Salaries	\$1,379,683	\$1,456,677	-\$76,994
500-91119	Custodial Salaries	\$6,664,307	\$6,474,839	\$189,468
500-91120	Maintenance Service Salaries	\$2,060,151	\$1,784,811	\$275,340
500-91121	Administrative Clerical Salaries	\$3,158,078	\$3,092,553	\$65,525
500-91122	School Clerical Salaries	\$2,090,585	\$1,963,612	\$126,973
500-91123	Non Instructional Salaries	\$1,853,047	\$1,747,702	\$105,345
540-91124	Crossing Guard Salaries	\$543,346	\$484,384	\$58,962
500-91133	School Nurse Salaries	\$3,752,868	\$3,856,281	-\$103,413
500-91134	Educational Support Salaries	\$2,562,428	\$2,347,200	\$215,228
540-97201	Transportation Overtime Salaries	\$473,736	\$553,873	-\$80,137
500-97203	Custodial Overtime Salaries	\$1,046,865	\$1,345,949	-\$299,084
500-97204	Maintenance Overtime Salaries	\$150,797	\$175,867	-\$25,070
500-97205	Support Overtime Salaries	\$68,837	\$87,759	-\$18,922
	Salary Total	\$209,481,930	\$205,963,476	\$3,518,453
500101-96000	Retirement	\$15,848,677	\$15,823,975	\$24,702
540103-92000	Transportation	\$13,807,942	\$14,004,067	-\$196,125
500105-92000	Out-of-State Travel	\$5,000	\$1,807	\$3,193
500122-92000	Athletic Ordinary Maintenance	\$92,434	\$459,381	-\$366,947
500123-96000	Health Insurance	\$42,517,179	\$41,951,576	\$565,603
500125-92000	Other Insurance Programs	\$53,538	\$52,826	\$712
500129-96000	Workers Compensation	\$1,352,305	\$1,823,417	-\$471,112
500130-92000	Personal Services	\$2,842,008	\$3,387,451	-\$545,443
500132-92000	Special Education Tuition	\$15,695,619	\$16,144,784	-\$449,165
500133-92000	Printing & Postage	\$207,531	\$268,128	-\$60,597
500-92204	Instructional Materials	\$3,248,386	\$4,120,087	-\$871,701
500136-92000	Miscellaneous Educational OM	\$3,675,765	\$4,212,580	-\$536,815
500137-96000	Unemployment Compensation	\$186,058	\$346,002	-\$159,944
500138-92000	In-State Travel	\$62,500	\$59,997	\$2,503
500141-92000	Vehicle Maintenance	\$548,952	\$514,259	\$34,693
500146-92000	Building Utilities	\$6,497,166	\$6,090,105	\$407,061
500152-92000	Facilities Ordinary Maintenance	\$2,670,125	\$3,068,076	-\$397,951
	Non Salary Total	\$109,311,185	\$112,328,517	-\$3,017,332
	Charter School Adjustment			-\$501,120
	Total General Fund Budget	\$318,793,113	\$318,291,993	\$501,120

STANDING COMMITTEE: **FINANCE AND OPERATIONS**

DATE OF MEETING: Monday, December 12, 2016

ITEM: Mr. O'Connell/Mr. Monfredo/Miss McCullough/Miss Biancheria
(August 10, 2016)

To implement the provisions of the November 1995 letter of the Commissioner of Education, and the Advisory on School Governance which accompanied it, that "the school committee remains the body responsible for approving and transmitting school department expenditures to the municipal accountant for the drawing of warrants. The Department of Revenue's Division of Local Services has advised that all school department bills must be approved by the school committee. When the superintendent, or principal and superintendent, have statutory authority to incur expense, the Department of Revenue advises that the bills must be approved by them as well as by the committee."

PRIOR ACTION:

- 8-18-16 - Referred to the Standing Committee on Finance and Operations.
Mr. Foley requested that the meeting be set up at a convenient time for Mr. O'Connell.
Mr. O'Connell requested that, prior to the Standing Committee Meeting, the Administration contact the State to determine what it is willing to accept as a system that in fact would work specifically for compliance with the warrant requirement and that the Administration provide the Standing Committee its recommendation at that time so the discussion is actually focused on a specific recommendation.

BACKUP:

- Annex A (1 page) contains a copy of the Administration's response to the item.
Annex B (11 pages) contains a copy of a legal opinion regarding School Committee Approval of School Department Expenditures - Legal Authority.

The School Committee requested the Administration to implement the provisions of the November 1995 letter of the Commissioner of Education, and the Advisory on School Governance which accompanied it, that "the school committee remains the body responsible for approving and transmitting school department expenditures to the municipal accountant for the drawing of warrants. The Department of Revenue's Division of Local Services has advised that all school department bills must be approved by the school committee. When the superintendent, or principal and superintendent, have statutory authority to incur expense, the Department of Revenue advises that the bills must be approved by them as well as by the committee."

Given that the Commissioner's letter dates more than twenty-years, the Administration researched its current practices in context of relevant state laws and city charter and ordinances. The attached letter from City Solicitor David Moore that explains the legal authority within the City of Worcester for the approval school department bills prior to payment. In summary, the City Solicitor states that the November 1995 letter of the Commissioner of Education does not apply to Worcester and the City Charter is placed under the City Auditor and City Manager.

Therefore, to follow the authority granted within the city charter, the Administration recommends no change in current process of payment of bills of the school department.



CITY OF WORCESTER, MASSACHUSETTS
Law Department

David M. Moore
City Solicitor

October 19, 2016

Maureen Binienda
Superintendent
Worcester Public Schools
John Durkin Administration Building
20 Irving Street
Worcester, Massachusetts 01609

School Committee Approval of School Department Expenditures - Legal Authority

Dear Superintendent Binienda:

You requested a legal opinion on the question whether the School Committee has legal authority to approve all school department bills prior to payment. The reference materials included with your request include a state statute, G.L. c. 41 §56, and a 1993 letter ("Letter") issued by then Commissioner of Education Robert V. Antonucci to address governance questions raised by the adoption of the Education Reform Act of 1993. (A copy of pages 1-5 of this Letter is attached for reference).

The statute, G.L., c. 41 § 56 ("section 56"), provides in relevant part:

The selectmen and all boards, committees, heads of departments and officers authorized to expend money shall approve and transmit to the town accountant as often as once each month all bills, drafts, orders and payrolls chargeable to the respective appropriations of which they have the expenditure.¹

The 1993 Commissioner's Letter (p.4) addresses this issue and concludes:

"[P]ending clarification through a statutory amendment or court decision, the school committee remains the body responsible for approving and transmitting

¹ The Municipal Modernization Act, chapter 218 of the acts of 2016 §58, amended this section to insert a provision allowing boards and committees to designate one of its members to perform this function. This provision goes into effect on November 7, 2016.

school department expenditures to the municipal accountant for the drawing of warrants.”

The Letter indicates that the “Department of Revenue’s Division of Local Services has advised [the Commissioner of Education] that all school department bills must be approved by the school committee.” (Letter, p.4). However, the Letter does not cite any published DLS advisory or ruling and I have been unable to find any such advice from DLS.

The Commissioner’s Letter concludes its discussion of this topic by stating:

“[S]ome communities have ... charter provisions that affect school budget and spending procedures” and advising school officials to “consult with municipal treasurers and accountants and with local counsel.” (Letter, p.4).

This statement expresses a recognition that other sources of governing law (city charters in particular) would in some districts take priority over section 56.

For the reasons detailed below, it is my opinion that the School Committee does not have legal authority to review and approve any or all bills, drafts, orders and payrolls chargeable to school department appropriations. My conclusion is based primarily on two independent reasons:

First, section 56 does not apply to the Worcester School Committee because the Worcester School Committee is not “authorized to expend money” as that phrase is used under section 56 and because section 56 applies primarily to towns, not cities; and,

Second, legal responsibility for the review and payment of bills and payrolls under other provisions of state law and the city charter is placed under the city auditor and city manager.

1. Section 56 Does Not Apply to the School Committee Because the Committee is Not “authorized to expend money” as Stated in Section 56.

Section 56 states:

“[t]he selectmen and all boards, committees, heads of departments and officers authorized to expend money shall approve all bills, drafts, orders and payrolls chargeable to the respective appropriations of which they have the expenditure.”

Any analysis of this provision cannot ignore the words “authorized to expend money” after the list of entities upon which this legal duty is placed by this statute, entities themselves which are marked by their executive nature. This brings into focus the

difference between the power to appropriate public funds and the power to expend public funds. In this case this distinction is driven by the difference between the legislative power and the executive power. This question is answered, not only by the Commissioner's 1993 Letter, but also by the state's highest court.

The Commissioner of Education, in the 1993 Letter, makes this distinction in terms of school committees and school superintendents. The Letter states that the "superintendent serves as the school committee's chief executive officer ...[who is responsible for the] "day-to-day operation of the school system." (Letter, p.2). The Commissioner refers to a position statement published jointly by the American Association of School Administrators and the National School Boards Association in the 1994 booklet, *Roles and Relationships: School Boards and Superintendents* and states plainly that the school committee "is a legislative body that develops, evaluates, and oversees education policies." (Letter, p. 2).

The Commissioner's understanding is consistent with state law and the city charter. Under state law the school committee is authorized to review and approve the annual budget proposed by the superintendent. G.L. c. 71 §37. The budget is a statement of proposed expenditures for particular purposes which, upon final approval of the school committee, become "appropriated" for those purposes. The expenditure of those amounts so appropriated is an executive function which is entrusted to the superintendent by both state law (G.L. c.71 §52) and the city charter (the "superintendent ... shall be charged with the day to day administration of the school system, subject to the policy directives adopted by the school committee." Worcester Home Rule Charter, Article Four §4-1(d)(2)).

The Supreme Judicial Court articulated the line between the legislative and executive realms in the 2002 case of *New Eng. Div. of the Am. Cancer Soc'y v. Comm'r of Admin.*, 437 Mass. 172, 183 (2002)(This case involved a challenge to the authority of the governor to make "9C" cuts in the annual appropriations made by the General Court):

We have defined the power of appropriation as the authority "to set apart from the public revenue a certain sum of money for a specified object, in such manner that the executive officers of the government are authorized to use that money, and no more, for that object and for no other." *Opinion of the Justices*, 323 Mass. 764, 766 (1948), quoting *State v. Moore*, 50 Neb. 88, 96, 69 N.W. 373 (1896). ... The "power to appropriate money ... is a legislative power. See *Opinion of the Justices*, 375 Mass. 821, 832 (1978). The "activity of spending money is essentially an executive task." *Id.* at 835.

The foregoing legal principles apply in the interpretation of the words "authorized to expend money" in section 56. They lead to the conclusion that section 56 does not

apply as a blanket to “all boards, committees, heads of departments and officers” of a municipality. Rather, it applies only to such entities if they are legally “authorized to expend money.” The School Committee occupies the legislative (policy-making) realm. There is no provision in the law which authorizes the Worcester School Committee to expend money. Likewise, there is no provision which authorizes any city board, committee, department head or officer to appropriate public funds. Therefore, section 56 does not give the Worcester School Committee authority to review and approve all invoices and payrolls generated by the operation of the school department.²

2. Legal Responsibility for the Review and Payment of Bills and Payrolls Under State Law, the City Charter and City Ordinances Is Placed Under the City Auditor and City Manager.

The Commissioner’s Letter acknowledges that local charter provisions may supersede the language of section 56 (as he has interpreted it). (Letter, p.4).³

The Worcester City Charter provides for the appointment of a city auditor by the city council and authorizes the auditor “to keep and have charge of all of the accounts of the city” and to perform such duties as may be prescribed by the city council or by law. City Charter, Article Two §2-8(b). The city has established an auditing

² It should be noted that the authority to approve invoices and payrolls would be, not only a gargantuan task with the review and approval of all school department deliveries of goods and services, but also would involve the School Committee in determining the validity of each by-weekly payroll for each of over two thousand employees in the district. It would also involve the review of invoices for the purchase of items which are exclusively under the discretion of school principals, such as the purchase of textbooks and other educational materials. See, G.L. c. 71 §§48 & 50; and, Commissioner’s Letter, p. 3). This could create invoice approval disputes over policy concerns, as opposed to performance concerns.

³ It may well be that section 56 does not apply to cities, which are marked by the appointment of a city auditor, but rather applies only to towns and town accountants. The last sentence of section 56 reads: “So far as apt this section shall apply to cities.” This “so far as apt” language leaves no clue as to what portion of this section might be “apt” for cities, especially in this portion of the general laws which establish town accountants and city auditors and empowers them differently. Section 52 (of chapter 41) provides a somewhat different process for the approval of bills and applies expressly to cities. Section 52 concludes with the statement: “This section shall not abridge the powers conferred on town accountants by sections fifty-five to sixty-one, inclusive. Note that the section at the center of this legal issue, section 56, is within the range of sections (§55 - §61) that apply generally to towns and town accountants. These sections represent one of the rare instances where the General Laws provide different rights, duties and processes for municipalities depending on whether they are cities or towns. Also, note that the commissioner tacitly recognizes the difference between cities and towns when he says that a school committee would transmit approved school department expenditures “to the municipal accountant.” (Letter, p.4).

department, in part, “to perform the pre-audit of financial transactions of municipal departments, boards, commissions and committees of the city, **including the school department.**” Worcester Revised Ordinances, Part Two, Article 11 §2 (emphasis added).

The city council has, by ordinance, required that the city auditor have general supervision of the accounts kept by all city departments and monitor departmental expenditures to ensure they do not exceed the amount appropriated. Worcester Revised Ordinances, Part Two, Article 11 §§7 & 8.

Specific to the issue at hand, the city council, acting under authority granted it by the city charter, has directed that all “bills and accounts from persons having demands against the city” be directed to the city auditor for review. City Ordinances, Part Two, Article 11 §9. This section states:

Before money is paid out of the city treasury, a requisition therefor, in writing, with detailed accounts attached, specifying the amount to be paid, and the party or parties to whom the payment is due, shall be made by the board or head of the department incurring the expenditure, upon the city auditor. He shall receive all such requisitions, accounts and claims rendered against the city, and carefully examine the same, and shall see that they are correctly cast and approved.

It is reasonable to conclude that the city council, acting under authority granted it by the city charter, has established a process for the review of invoices, etc., generated by the operations in all city departments, including the school department.

Section 9 of the city auditing ordinance also provides for the participation of the city manager in the invoice approval process:

When invoices for services rendered or supplies furnished shall have been recorded by the city auditor, the draft or order upon the city treasurer for the payment of the aggregate amount of the bills aforesaid shall be signed by the city manager, and countersigned by the city auditor.

The participation of the city manager is significant because the city charter also provides that no contract (no invoice or charge) where the amount exceeds \$2,000 is legally binding on the city unless it is signed both by the department head of the department incurring the expense and the city manager. City Charter, Article Five §5-7. These charter provisions place the city manager in the unique position of approving virtually all city contracts, including those issued by the school department, and then exercising oversight (prior to payment) of the supply of goods and services specified in those contracts.

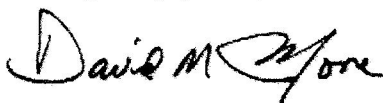
In addition to the particular process established by the city charter and city ordinances, other laws apply to this issue. One of those laws is G.L. c.41 §52, which provides: "the [city] auditor ... shall approve the payment of all bills or pay rolls of all departments before they are paid by the treasurer." There would be an inherent conflict if the law provided authority for two separate municipal entities (the school committee and the city auditor) to review and approve departmental invoices (a review which is limited to ascertaining whether the goods or services involved have in fact been received in conformance with the applicable contract). This could create a conflict where the school committee, which has reviewed an invoice or payroll which may already have been reviewed and approved by the school administration, approves an expenditure only to find that the city auditor has rejected it. There is no provision for determining which decision has priority.

Lastly, in sorting out the priority of sections 56 and 52 and the city charter, it should be noted that the courts have also observed that, in the case of conflicting provisions, normally the more specific will prevail over the more general. *Boston Housing Authority v. Labor Relations Com'n*, 398 Mass. 715, 718-719 (1986), citing *Boston Teachers Union v. School Comm. of Boston*, 370 Mass. 455 (1976). See also *Mulrain v. Selectmen of Leicester*, 13 Mass.App.Ct. 48 (1982). The provisions of the Worcester City Charter are specific to Worcester and would be given priority over a general provision found in a statute that applies statewide.

Therefore, it is my opinion that the School Committee has no legal authority to approve any or all school department bills prior to payment, first, because the text of G.L. c. 41 section 56 does not apply to a legislative body such as the school committee and, second, because, even if my interpretation of section 56 is incorrect, the city charter and other provisions of the general laws provide a process for the review and approval of school department invoices and payrolls which is specific to Worcester as a city and which has been utilized for decades.

I would be happy to answer any questions on this issue.

Very truly yours,



David M. Moore
City Solicitor

cc: Brian E. Allen

Letter from Robert V. Antonucci, Commissioner of Education

November, 1995

Dear Friends,

Successful education reform requires innovation on many levels. One major change brought about by the Education Reform Act of 1993 concerns school governance. The Department of Elementary and Secondary Education has received many questions about the roles and responsibilities of school committees, superintendents, principals, and school councils. The purpose of this advisory is to explain the state law as it applies to particular functions of school governance, and to offer our recommendations, based on two years of experience with the Education Reform Act, on the important role that each partner in this endeavor plays in advancing collaboration and school improvement.

This document is organized according to five broad themes:

- I. Educational Goals & Policies; Management & Leadership
- II. Budget
- III. Staffing
- IV. Selection & Purchase of Textbooks & Educational Materials
- V. School Councils; School-Based Decision-Making

Within each topic the applicable state statutes are summarized and referenced. Then recommendations are made on how to implement the law in day-to-day practice. These recommendations and Education Reform itself will succeed only if all parties involved in local school governance work together effectively, and focus on the goal of improving educational opportunities and results for all students.

Sincerely,

Robert V. Antonucci
Commissioner of Education

I. Educational Goals & Policies; Management & Leadership

State law: The school committee establishes educational goals and policies for the schools in the district, consistent with the requirements of law and the statewide goals and standards established by the Board of Education. (G.L. c. 71,[[section]] 37) The school committee's status as the "employer" for collective bargaining purposes remains unaltered by Education Reform. (G.L. c. 150E, [[section]] 1)

The superintendent employed by the school committee shall manage the system in a fashion consistent with state law and the policy determinations of the school committee. (G.L. c. 71, [[section]] 52)

Principals are the educational administrators and managers of their schools, and shall supervise the operation and management of their schools and school property, subject to the supervision and direction of the superintendent. (G.L. c. 71, [[section]] 59B) Each principal works with a school council to define educational goals for the school, identify the educational needs of the students, and formulate a school improvement plan, consistent with state and local educational goals and policies. (G.L. c. 71, [[section]] 59C)

Department of Elementary and Secondary Education recommendations: We view the school committee as the publicly elected or appointed equivalent of a board of directors of a corporation, which in this case is a school system. The school committee has oversight of and responsibility for the school system, sets the direction in which the system must go, and establishes criteria to determine if its goals and policies are being met.

The superintendent serves as the school committee's chief executive officer and educational advisor. The superintendent is the educational leader for the school system, and provides administrative leadership for all school staff in operational matters and in proposing and implementing policy changes. Day-to-day operation of the school system is the responsibility of the superintendent, together with school principals and other administrative staff members.

The respective roles of the school committee and the superintendent are described in a position statement published jointly by the American Association of School Administrators and the National School Boards Association in the 1994 booklet, *Roles and Relationships: School Boards and Superintendents*:

The school board is a legal agent of the state and must, therefore, fulfill both state and federal mandates. At the same time, the board must be responsive to the community it serves. The board is a legislative body that develops, evaluates, and oversees education policies. The superintendent is the professional educator chosen by the board to implement policies and to provide professional leadership for a district's schools. With such vital responsibilities, a sense of teamwork is essential.

In an enterprise as complex as a school district, the line between policy and administration is rarely clear-cut. Nonetheless, harmonious and productive relationships can flourish if two-way communication is established and maintained.

Just as a corporate board of directors seeks information and recommendations from the CEO and from others with expertise in a particular field before making policy decisions, an effective school committee solicits information and recommendations from the superintendent before establishing policy. After reviewing and discussing this information, it is the school committee's duty to make the best decision possible based on the information available. Similarly, an effective superintendent keeps the school committee informed about major administrative decisions and procedures, enabling the committee to assess whether those administrative actions conform to school committee policy.

The line between educational policy (the school committee's domain) and administrative operations (the superintendent's responsibility) is sometimes clear. Several statutes specify policy decisions to be made by the school committee. For example, G.L. c. 76, [[section]] 12B, the school choice law, requires the committee to vote (after holding a public hearing), if the district is not going to admit non resident students, and permits the committee to establish terms for accepting non-resident students if it is participating in choice.

Another example of a school committee policy decision concerns the length of the school day and school year. Under the Student Learning Time Regulations (603 CMR 27.00), the school committee establishes the school year schedules for the schools in the district, consistent with the state standards and guided by the student learning time plan recommended by the school council at each school.

Similarly, the school committee is responsible for adopting general disciplinary policies for students in the district, in consultation with the superintendent. However, it is appropriate for the committee to delegate to the superintendent, principals and school councils the authority to define detailed rules of student conduct applicable to specific schools. In fact, at the high school level, state law makes this school-based responsibility explicit. By statute, in every school containing grades 9 through 12, the principal and school council annually prepare and publish the student handbook, within the framework of the general policies adopted by the school committee. (See G.L. c. 71, [[section]][[section]] 37H and 59C.)

Broad, system-wide curriculum or school restructuring issues, such as whether the district should establish a French immersion program for grades K-6, or whether to switch from a junior high to a middle school structure, concern educational goals and policies for the district. As policy issues, these matters are for the school committee to decide, after seeking advice and recommendation from the superintendent.

In contrast, school committees should not decide at what grade level teachers are to start teaching students cursive writing. As an operational issue, that decision should be left to the professional educators. Also, the selection and purchase of textbooks and other educational materials are now the responsibility of school principals, under the direction of the superintendent and within the budget set by the school committee. (G.L. c. 71, [[section]] 48) G.L. c. 71, [[section]] 50 still permits the committee to make a change in the "school books used in the public schools" by a two-thirds' vote. However, we view that law as applying only to a textbook change that constitutes a significant shift in educational direction for the district. As a general rule, the school committee does not approve or reject textbooks and educational materials.

We have been asked whether designing the format of the student report card is a task for the school committee or the school administration. Our response is that the school committee establishes the educational standards for students in the district (e.g., the local standards for high school graduation, and for promotion of students from grade to grade). It is then up to the administration -- the superintendent and principals, perhaps with advice from school councils -- to design the report card format in a way that informs students and families about individual

progress, and enables the school committee to determine whether its educational goals and standards for student performance are being met.

Whenever the line between policy and operations is not clear, we believe the matter is best resolved locally, through open communication and collaboration between the school committee and the superintendent. School committees are most effective in advancing education reform when they focus on the strategic direction of the school system, on educational policy and outcomes rather than on managerial responsibilities.

With respect to school principals, under Education Reform their role is more important than ever. The school is the focal point for achieving the primary goal of Education Reform: enabling all students to meet the high standards of the Common Core of Learning adopted by the Board of Education in 1994.

Within the framework of the statewide standards, and the local educational goals, policies and budget established by the school committee and implemented by the superintendent, the principal oversees and promotes the continuous improvement of teaching and learning within the school building. Through the principal's leadership, in collaboration with the school council, teachers and other school staff and parents, each school should be an innovative, safe and supportive environment for teaching and learning.

II. Budget

State law: The school committee reviews and approves budgets for public education in the district. (G.L. c. 71, [[section]] 37) The committee must hold a public hearing on the proposed annual budget. (G.L. c. 71, [[section]] 38N) The school committee has authority to determine expenditures within the total appropriation voted by the city or town. The city or town appropriating body is authorized to make non-binding monetary recommendations to increase or decrease certain items allocating such appropriations, but it may not limit the school committee's authority to determine expenditures within the total appropriation. (G.L. c. 71, [[section]] 34)

Department of Elementary and Secondary Education recommendations: The school committee's authority to propose the annual school budget and to determine expenditures within the total appropriation was not amended by the Education Reform Act. However, since Education Reform defines the managerial authority of superintendents and principals in areas such as staff hiring and textbook purchases, some school officials have asked whether the superintendent rather than the school committee should be responsible for approving warrants for payment.

Pending clarification through a statutory amendment or court decision, the school committee remains the body responsible for approving and transmitting school department expenditures to the municipal accountant for the drawing of warrants. The Department of Revenue's Division of Local Services has advised that all school department bills must be approved by the school committee. When the superintendent, or principal and superintendent, have statutory authority

to incur expense, the Department of Revenue advises that the bills must be approved by them as well as by the committee.

Some communities have local ordinances or charter provisions that affect school budget and spending procedures. School officials who have specific questions about budget and municipal accounting matters should consult with municipal treasurers and accountants and with local counsel.

ITEM: gb #6-294

STANDING COMMITTEE: **FINANCE AND OPERATIONS**

DATE OF MEETING: Monday, December 12, 2016

ITEM: Administration (August 22, 2016)

To review the status of the FY17 Budget and make appropriate transfers as required.

PRIOR ACTION:

9-1-16 - Referred to the Standing Committee on Finance and Operations.

BACKUP:

Annex A (2 pages) contains a copy of the FY17 Budget Status First Quarter Report.

Annex B (1 page) contains a copy of the FY17 Budget Account Summary First Quarter Report.

**FY17
 BUDGET STATUS
 First Quarter Report**

The status of all Salary and Ordinary Maintenance accounts as of September 30, 2016 is shown on Annex B. Presented for each account is the amount budgeted for the current fiscal year, the amount expended and committed as of September 30th, and the projected balance at the closing on June 30, 2017. Salary and Ordinary Maintenance Account totals are:

<u>Budget Title</u>	<u>Budget Amount</u>	<u>Expended</u> <u>09/30/16</u>	<u>Projected Balance</u> <u>06/30/17</u>
Salaries	\$208,425,372	\$22,251,573	-\$530,112
Ordinary Maintenance	<u>\$114,470,432</u>	<u>\$55,262,186</u>	<u>-\$182,839</u>
Total General Fund	\$322,895,803	\$77,513,759	-\$712,951

At this point in the fiscal year, a total of \$77,513,759 (24%) has been expended or committed. A description of the projected balances is as follows:

Budget Impacts:

Instructional Assistants (-\$694,132): Due to the elimination of the Quality Kindergarten, the general fund was re-allocated to include funding for 21 full-time equivalent. Replacement positions, salaries and contractual payments are included in this projected balances.

Special Education Tuition (-\$442,912): The tuition account reflects updated estimated tuition payments through the end of this year based on student fiscal responsibility and approved tuition rate increases for residential placements. This account also represents the processing of several necessary prior year payments.

Supplemental Program Salaries (-\$264,529): The majority of the projected deficit (\$145,000) reflects the increase of translation costs due to the recently updated requirements from the Department of Justice. The volume of necessary documents has increased for the school locations. This projected amount also includes \$67,000 for anticipated special education summer school programs in June 2017, as well as the reallocation of funding for home ABA services of our special education students in order to increase internal capacity. During the summer, the district successfully eliminated the use of third party vendors to provide better instructional support to our students. The district has increased internal capacity by developing part-time position in lieu of utilizing third party services that were originally budgeted in account 500130 Line D. The FY18 budget will reflect the change in the reallocation of funds.

Transportation (-\$130,468): Due to the current condition of the district's fleet, the district needed to add one special education route using third party services. These additional routes are anticipated through the end of the school year. This account also represents an increase for the vehicles utilized for the special education Transitions program. The School Committee authorized the Administration to enter into lease agreements for special education vehicles to reflect the need to expedite the renewal of

the existing fleet. The district is developing contracts for the lease of 10 buses during later this fiscal year.

Accounts with Projected Balances to Offset Deficit Accounts:

Instructional Materials (\$588,301): The balance in this account is for the charter school assessment increase typically utilized to address a reduction of the budget at the time the City does the tax recap process. Based on preliminary conversations with the City Manager, it is expected that the reduction of the city's required contribution will not occur and those funds will remain in the WPS to partially cover the cost of the district's Instructional Assistants due to the elimination of the Quality Kindergarten grant. Due to the current projected year ending balance, the amount also reflects the additional instructional material per pupil allocation of \$10 per student that is typically frozen through March.

Educational Support (\$377,530): The projected balance of this account is due to the reallocation of several ESL tutor positions. During the summer, several of these positions have been reallocated to teacher positions. There is also several vacant ESL positions and the projection includes replacement positions through the remainder of the year.

Personal Services (\$143,012): The special education department is continuing with the restructure of specialized services for our special education students in order to increase internal capacity. During the summer, the district eliminated the use of third party vendors to provide better instructional support to our students. These funds (\$400,000) have been reallocated to both instructional technology, as well as salary accounts. This account includes an increase to the district's legal consultation (-\$70,000) and translation service line items (-\$100,000), security guard contracted rates (-\$30,000) and nursing services contract rates (-\$50,000).

Utilities (\$80,423): Due to the addition of several solar projects and the summer conditions, electricity usage through September was much lower than anticipated. This amount also reflects the increased in delivery rates effective October 1st approved by the Massachusetts Department of Public Utilities. The supply rates remain under contract through the end of February 2017.

The Administration does not recommend any transfer of funds at this time.

**WORCESTER PUBLIC SCHOOLS
 2016-2017 BUDGET
 ACCOUNT SUMMARY
 FIRST QUARTER REPORT**

<u>Account</u>	<u>Account Title</u>	<u>Adopted</u>	<u>Expended</u>	<u>Projected</u>
500-91110	Administration Salaries	\$12,130,258	\$2,927,228	\$77,557
500-91111	Teacher Salaries	\$156,412,847	\$12,174,714	-\$212,354
500-91112	School Committee Salaries	\$89,445	\$18,736	\$14,501
500-91114	Day by Day Substitutes Salaries	\$871,200	\$58,952	-\$120,576
500-91115	Instructional Assistants Salaries	\$9,621,974	\$1,229,156	-\$694,132
500-91116	Coach Salaries	\$524,427	\$6,441	\$0
540-91117	Transportation Salaries	\$2,564,061	\$484,858	\$118,507
500-91118	Supplemental Program Salaries	\$1,371,001	\$517,604	-\$264,529
500-91119	Custodial Salaries	\$6,668,155	\$1,511,225	\$208,915
500-91120	Maintenance Service Salaries	\$2,060,730	\$405,866	\$210,749
500-91121	Administrative Clerical Salaries	\$3,065,868	\$745,482	-\$41,828
500-91122	School Clerical Salaries	\$2,066,749	\$390,740	\$65,020
500-91123	Non Instructional Salaries	\$2,202,195	\$631,256	-\$15,554
540-91124	Crossing Guard Salaries	\$543,346	\$49,296	\$3,664
500-91133	School Nurse Salaries	\$4,043,775	\$326,515	-\$19,378
500-91134	Educational Support Salaries	\$2,449,106	\$357,230	\$377,530
540-97201	Transportation Overtime Salaries	\$473,736	\$55,887	-\$57,667
500-97203	Custodial Overtime Salaries	\$1,046,865	\$301,037	-\$168,907
500-97204	Maintenance Overtime Salaries	\$150,797	\$29,674	-\$11,630
500-97205	Support Overtime Salaries	<u>\$68,837</u>	<u>\$29,676</u>	<u>\$0</u>
	Salary Total	\$208,425,372	\$22,251,573	-\$530,112
500101-96000	Retirement	\$16,751,681	\$17,506,073	\$0
540103-92000	Transportation	\$14,389,893	\$5,524,506	-\$130,468
500105-92000	Out-of-State Travel	\$5,000	\$0	\$0
500122-92000	Athletic Ordinary Maintenance	\$92,820	\$136,424	\$0
500123-96000	Health Insurance	\$44,806,753	\$0	-\$150,795
500125-92000	Other Insurance Programs	\$53,491	\$17,766	\$5,013
500129-96000	Workers Compensation	\$1,352,305	\$403,536	-\$260,978
500130-92000	Personal Services	\$2,932,305	\$1,684,127	\$143,012
500132-92000	Special Education Tuition	\$17,451,366	\$17,951,366	-\$442,912
500133-92000	Printing & Postage	\$224,595	\$202,119	-\$16,695
500-92204	Instructional Materials	\$3,243,810	\$1,706,695	\$588,301
500136-92000	Miscellaneous Educational OM	\$3,109,542	\$2,175,131	-\$8,240
500137-96000	Unemployment Compensation	\$318,226	\$81,489	\$0
500138-92000	In-State Travel	\$81,000	\$1,740	\$10,500
500141-92000	Vehicle Maintenance	\$505,601	\$162,707	\$0
500146-92000	Building Utilities	\$6,456,119	\$6,157,606	\$80,423
500152-92000	Facilities Ordinary Maintenance	<u>\$2,695,925</u>	<u>\$1,550,901</u>	<u>\$0</u>
	Non Salary Total	\$114,470,432	\$55,262,186	-\$182,839
	Charter School Adjustment			
	Total General Fund Budget	\$322,895,803	\$77,513,759	-\$712,951