May 3, 2022

VIA HAND DELIVERY

Attorney Michael P. McKeon
Director of Legal and Governmental Affairs
Connecticut State Department of Education
450 Columbus Boulevard
Hartford, CT 06103

Re: Section 10-4b Complaint Response of the Killingly Board of Education

Dear Attorney McKeon:

The Respondent Killingly Board of Education (the “Board”, “Respondent”, “District” or “Killingly”) hereby submits its response to the Conn. Gen. Stat. §10-4b complaint filed by Attorney Andrew A. Feinstein dated April 5, 2022 (the “Complaint”), on behalf of the Killingly residents and parents listed therein (the “Complainants”). *See* Complaint, Exhibit 1. This Complaint stems from a disagreement about a single Board decision: whether or not the Board should provide space in its high school for an independent health care company to provide private social work counseling services to high school students and their families. Our statutes allow school districts to allocate public school space for a private health center called a school-based health center (“SBHC”), but do not compel any school district to do so. By design, the legislature has conferred on elected local education officials the discretion to make the decision about establishing a SBHC. Moreover, the decision about this specific SBHC proposal cannot be viewed in isolation.

Individuals can and do differ on the question of how to best support student mental health and social-emotional needs. The decision as to whether a local board of education should create a SBHC as one of many mental health supports requires consideration of many factors beyond whether the local board agrees with taking on the responsibility for providing this service within its schools. The decision to establish a SBHC necessarily includes decisions about: 1) the details of where that program is to be located, 2) how students and their families can access the program, 3) hours of operations, 4) staffing of the program, 5) the scope of services to be offered and 6) other discretionary but important aspects of the program. Under our legislative structure for SBHCs, such decisions are to be made by local elected officials and are well beyond the scope of a Section §10-4b investigation. Fortunately, the question before the State Board of Education (“SBE”) is not the specific means or methods by which Killingly should support student mental health needs. Rather, as stated in the investigation letter from Commissioner Russell Tucker, the question for SBE consideration is whether Killingly has complied with the mandate of Conn Gen Stats. §§10-4 and 10-220 to provide a safe school environment. As demonstrated below, Killingly has and continues to do so.

Given the short statutory time frame for the submission of its response as well as the multiple ways that Killingly addresses mental health issues from broad Board policies to individual lessons plans, this response does not fully address in detail all of the ways that Killingly works to create a safe and nurturing learning environment for all its students. That said, the examples cited below refute completely the Complainants’ allegations that Killingly has taken insufficient actions to meet the needs of its students during the global pandemic as well as the allegation that Killingly has failed in its obligation to provide a safe learning environment.

1. **Procedural History**

Acting through their counsel, Attorney Andrew A. Feinstein, the Complainants filed a Conn. Gen. Stat. §10-4b complaint against Killingly with the SBE on or around April 5, 2022. By letter dated April 11, 2022, Connecticut’s Commissioner of Education, Charlene Russell Tucker (the “Commissioner”), informed Killingly that the SBE would investigate the allegations in the Complaint (“CSDE Letter”). *See* April 11 Letter, Exhibit 2. Specifically, the Complainants allege that Killingly has “failed to fulfill the educational interests of the State of Connecticut by failing to provide the minimum services and supports necessary to deal with the social, emotional and mental health needs of the students at Killingly High School.” *See* Complaint at 1. The Complaint further alleges that Killingly “has failed to avail itself of any alternative mechanism of meeting the social, emotional and mental health needs of all its students,” *See* Complaint at 8, and “has refused to address a critical education need that has been well documented.” *Id*. The Board denies these allegations on the basis of the information set forth herein.

The Commissioner’s letter identifies the Complaint allegations as “stating basic facts which state a cause of action concerning an alleged violation of the educational interests of the state.” The Commissioner identifies that the focus of the investigation by the Connecticut State Department of Education (“CSDE”) will be on whether “the Killingly Board is providing “a safe school setting” as required by Conn. Gen. Stat. § 10-220(a).” *See* April 11 Letter, Exhibit 2. Accordingly, through this response, the Board provides the SBE with factual information and documentation of its significant efforts to provide services and supports to address the social, emotional and mental health needs of the students of Killingly High School. The Board also provides the SBE with specific information pertaining to the privately operated health clinic that the Complainants seek to have established at Killingly High School, in order to provide the SBE with relevant facts as to the context underlying the Complaint.

The Complaint itself demonstrates clearly that the Complainants are not alleging any specific unsafe condition in the Killingly High School. Instead, the Complainants are requesting that the SBE compel the local board to adopt one particular proposed solution to an identified scarcity of convenient access to community mental health services in the region in which Killingly is located. The Complainants are trying to conflate a scarcity of community mental health resources in Killingly with the Board’s duty to provide a safe school setting, and improperly using the § 10-4b complaint process as a means to compel Killingly to establish a SBHC despite the decision, to date, by locally elected officials to decline to do so.

Conn. Gen. Stat. § 10-4a defines the educational interests of the state and provides (emphasis added):

**Sec. 10-4a. Educational interests of state identified**. For purposes of sections 10-4, 10-4b and 10-220, the educational interests of the state shall include, but not be limited to, the concern of the state that (1) each child shall have for the period prescribed in the general statutes equal opportunity to receive a suitable program of educational experiences; (2) each school district shall finance at a reasonable level at least equal to the minimum budget requirement pursuant to the provisions of section 10-262j an educational program designed to achieve this end; (3) in order to reduce racial, ethnic and economic isolation, each school district shall provide educational opportunities for its students to interact with students and teachers from other racial, ethnic, and economic backgrounds and may provide such opportunities with students from other communities; ***and (4) the mandates in the general statutes pertaining to education within the jurisdiction of the State Board of Education be implemented***.

The Commissioner identified that the concerns raised by the Complainants implicate the duty of the Board set forth at Conn. Gen. Stat. § 10-220(a) to provide a safe school setting. Conn. Gen. which expressly provides that “a) Each local or regional board of education shall maintain good public elementary and secondary schools, implement the educational interests of the state, as defined in section 10-4a, and provide such other educational activities ***as in its judgment*** will best serve the interests of the school district. . .[including providing] an appropriate learning environment for all its students which includes (1) adequate instructional books, supplies, materials, equipment, staffing, facilities and technology …(4) a safe school setting….” (emphasis added).

Conn. Gen. Stat. § 10-4b and its implementing regulations set forth the process for the SBE to follow in its review of the Complaint. Conn. Gen. Stat. § 10-4b(a) defines the scope of this investigation as an inquiry whether “there is reasonable cause to believe that a local or regional board of education has failed or is unable to make reasonable provision to implement the educational interests of the state as defined in section 10-4a.” See also, Regs. Conn. State Agencies § 10-4b-7. As discussed below, the Complainants have not demonstrated a sufficient basis for such a finding, and therefore this Complaint should be dismissed without further investigation.

1. **Factual Background**

According to State Department of Education data, Killingly serves 2,387 students within its school district. The Board operates five schools/programs: Goodyear Early Childhood Center, Killingly Central School, Killingly Memorial School, Killingly Intermediate School, and Killingly High School. The Board spends $17,478.00 per pupil and employs approximately 245.4 full time certified staff. [Link](https://edsight.ct.gov/SASStoredProcess/guest?_program=/CTDOE/EdSight/Release/Reporting/Public/Reports/StoredProcesses/ConnecticutReportCard&_district=Killingly+School+District&_school=+&_select=Submit); Killingly District Profile and Performance Report for School Year 2019-2020, Exhibit \_\_.

*District Focus on Student Mental Health*

The Board recognized the importance of student mental health, even prior to the pandemic. In 2019, the Board made Social Emotional Learning (“SEL”), an area of focus as noted in District goal number 4 School Culture and Climate, which provides:

A. KPS will provide a safe, healthy and supportive environment for learning where students build resilience through the integration of social, emotional and academic skills. B. KPS will cultivate positive student, family, community partnerships that support learning, build pride and recognize the value for education.

Board Goals, Exhibit \_\_.

In addition, the District’s website contains a SEL Resources page with the following Mission Statement:

The Social and Emotional Learning (SEL) and well-being of our students, staff and families is at the heart of building a high quality education for all. Killingly Public Schools strive to co-create a supportive learning environment where all students and adults can enhance their social and emotional competencies, feel a sense of belonging, and heal and thrive in a meaningful way. Building positive relationships helps to establish and empower a supportive community of learners. We strive to enhance equity experiences and outcomes for all students and adults across race, gender identity, disability, language and socio-economic backgrounds. [Link](https://www.killinglyschools.org/academics/social-emotional-learning-sel)

The Board’s commitment to this mission statement starts with its Early Childhood Center, which also houses its Family Resource Center (cite) and continues through its high school and transition programs.

*District Support Staff Resources*

Another way that the Board advances its SEL Goal and Mission Statement is by providing student support staff at levels exceeding the statewide average and by continuously supplementing the student support staff resources. The District employs a total of 19 full-time equivalent (“FTE”) certified professionals in the job classifications of school psychologists, social workers, and school counselor categories (“student support” categories). The majority of these professionals (8.5 FTEs) work at Killingly High School. The 19 full-time certified professionals working in these student support categories represent 7.7% of the total District-wide certified in all categories combined (245.4 FTEs).[[1]](#footnote-1) The District’s percentage of staff resources to student support positions (7.7%) exceeds the state-wide percentage of FTEs in student support categories (7.3%). [Link](https://edsight.ct.gov/SASStoredProcess/guest?_program=/CTDOE/EdSight/Release/Reporting/Public/Reports/StoredProcesses/ConnecticutReportCard&_district=Killingly+School+District&_school=+&_select=Submit); Killingly District Profile and Performance Report for School Year 2019-2020, Exhibit \_\_. Notably, all of these support service personnel report directly and are accountable to the District administration. By contrast, should a SBHC be established, SBHC personnel would not report to District administrators or be able to share information with the District about student needs, unless consent was granted for the SBHC personnel to speak with school personnel.

The District also is supplementing its staff resources, despite a difficult labor market. For example, Complainants’ assertion that the District has ignored the need to fill a school psychologist position is incorrect. In actuality, the District hired a school counselor to fill a school psychologist vacancy when a qualified psychologist candidate could not be identified. Moreover, it is important for the SBE to note that a school counselor is available to direct student support activities (e.g. counseling), while a school psychologist would likely spend the majority of his/her time conducting testing for students. As a large large part of the school psychologist responsibilities in any school district is to conduct standardized testing, ime spent conducting standardized testing of students takes away from time available for a school psychologist to counsel students. When qualified school psychologist candidates could not be located, the District outsourced the task of completing student evaluations that would normally have been handled by a District school psychologist to outside contractors. Thus, the school counselor who has been hired has more time to provide direct student support services than a school psychologist would have. The District also recently hired a school social worker to fill a vacant position at Killingly Central School. The District also contracts with private providers to supplement the capacity of its own student support staff.  Affidavit of R. Angeli, Exhibit 3.

The Board also applied for Elementary and Secondary School Emergency Relief Fund (“ESSER”) grant monies to provide additional means of student support. The Board directed this grant funding to establish 1.5 Board Certified Behavior Analyst (“BCBA”) FTE positions and two Social Emotional Learning specialist positions at the elementary level. These specialists assist students who require additional support due to social-emotional concerns throughout the school day. Affidavit of R. Angeli, Exhibit 3.

*District Special Initiatives and Programming*

The Board advances its SEL Goal and Mission Statement through special initiatives and programming, as well as training designed to increase the competencies of school staff in the social emotional learning domain. Killingly organized *Social Emotional Learning Committees* during the 2020-2021 school year to consider students’ social-emotional learning needs. Affidavit of Dr. Nash, Exhibit 3. One example of the work of this Committee is the selection and implementation of the *RULER Program* ([Link](https://ycei.org/ruler)) to support students’ social emotional needs at the Intermediate and High School levels (the *RULER Program* had already been selected by Killingly Memorial School by that time).[[2]](#footnote-2) Id. The *RULER Program* is a systematic approach to social and emotional learning spanning pre-k to grade 12 that was developed at the Yale Center for Emotional Intelligence. *RULER* is an acronym for the five skills of emotional intelligence: recognizing emotions in oneself and others, understanding the causes and consequences of emotion, labeling emotions with a nuanced vocabulary, expressing emotions in accordance with cultural norms and social context and regulating emotions with helpful strategies. This program involves all stakeholders in a school community – school leaders, teachers, staff, students and families.

Killingly has made a significant commitment of resources to bring the *RULER Program* to the District as a way to provide significant social and emotional supports to students and their families through all years of their education. The Board’s substantial commitment to the *RULER Program* is reflected by its decision to send teams of core staff from each of its schools to training provided by the Yale Center for Emotional Intelligence. After training, the core staff teams then provide training about the *RULER Program* to their colleagues over the span of an entire school year before *RULER* can be implemented. Professional development in the *RULER Program* continues in the District at each of the Elementary, Intermediate, and High School levels. *RULER* is fully implemented at Killingly Memorial School, where it is regularly used in the classroom. The *RULER Program* is in the process of implementation at both Killingly Intermediate School and Killingly High School. The District will fully implement *RULER* at both schools within the next two school years, with Killingly Central School beginning to train staff during the 2022-2023 school year. Affidavit of Dr. Nash, Exhibit 3.

The District also supports student mental health by implementing additional programming focused on social-emotional learning at the Intermediate Level. Students engage in a social-emotional learning curriculum developed at the school building level two to three days per week. During the 2020-2021 and 2021-2022 school years, the District secured training for Intermediate School staff in the *Sandy Hook Promise: Know the Signs[[3]](#footnote-3)* program and has also provided restorative practices training for several years. The Intermediate School also implemented a restorative room for students who need a quiet place to regroup. The Board also trained Intermediate School staff during the 2019-2020 school year in learning to recognize that Adverse Childhood Experiences (“ACEs”) significantly affect social and emotional development. Affidavit of Dr. Nash, Exhibit 3.

 District administrators have consistently informed the Board on the District’s social and emotional learning initiatives. For example, on March 23, 2022, the District administration reported to the Board about the Social Emotional Learning initiative at Killingly Intermediate School. Minutes of the March 23, 2022 Killingly Board of Education Meeting, Exhibit \_\_.

At the High School level, the District has provided staff *Sandy Hook Promise* training for the past two years. The freshmen team and student support staff received *Restorative Practices* training during the 2019-2020 school year. The District also conducted a training with Dr. Sharon Saline ([Link](https://drsharonsaline.com/)) during the 2021-2022 school year. Curriculum Vitae of Dr. Sharon Saline, Psy.D, Exhibit \_\_. Students experienced a *Wellness Day*, which introduced students to strategies for self-care, at the High School. Affidavit of Dr. Nash, Exhibit 3. On February 23, 2022, the District administration reported to the Board about the benefits of the *Sandy Hook Promise* training at Killingly Intermediate School and Killingly High School. Minutes of the February 23, 2022 Killingly Board of Education Meeting, Exhibit \_\_.

At the lower grades, Vivian Batterson conducted a two year training for staff regarding social-emotional learning, the *Circle of Courage* ([Link](https://starr.org/circle-of-courage/)), impacts of trauma, and strategies to use when working with children. The District also ensured that staff at the early grades received training in *Responsive Classroom* strategies and training regarding how ACEs affect social and emotional development. Affidavit of Dr. Nash, Exhibit 3.

In recognition of the impact of toxic stress, the District introduced a focus on toxic stress and other SEL topics by requiring all teachers and administrators in the District to view the documentary, *Resilience* ([Link](https://kpjrfilms.co/resilience/)). Teachers and administrators from each school in the District worked in small groups to reflect on what was learned, the impact of ACEs, as well as strategies to incorporate the learning into practice. Affidavit of Dr. Nash, Exhibit 3. The District provided *Anti-Defamation League (“ADL”)* training program, “*No Place for Hate*,” during the current school year. Affidavit of Dr. Nash, Exhibit 3.

*Community Outreach*

Understanding that the health of the community impacts the experience of students, the Board also advances its SEL Goal and Mission Statement by engaging in community outreach and community-based activities. The District maintains a *SEL Resources Page*, established by the Social Emotional Learning Committee, on the District web site. The *SEL Resources Page* includes extensive information about student mental health, social emotional learning, and community resources. [Link; Family Care Connections Eastern Region Resource List, Exhibit \_\_](https://www.killinglyschools.org/academics/social-emotional-learning-sel) Given the impact of the pandemic on mental health, the District shares information about student mental health with students’ families, including information on concerning signs to watch for in students and available supports (including providers currently accepting new patients). Behavioral Health in a Pandemic Year, Exhibit 4.

The District developed and continues to share a list of local/regional resources with District staff to allow for quick reference by community members in need. *Link; Family Care Connections Eastern Region Resource List*, Exhibit 5. The Goodyear Early Childhood Center’s Family Resource Center provides both in person and web-based resources to support the whole family, including mental health topics and resources. [Link](https://www.killinglyschools.org/goodyear-early-childhood-center) The District operates a series of family outreach programming known as *Parent Connect*, an ongoing series held twice each month to help families identify resources and strategies to us to help their children overcome the impact of the pandemic. Parent Connect letters, Exhibit 6. One session of the *Parent Connect Series* held by Zoom on January 27, 2022 addressed the topic “supporting your children’s social, emotional and behavioral health at home.” The speakers were Dr. Kristen Xeller of Quiet Corner Family Practice in Pomfret and Psychologist Dr. Ravit Stern from EASTCONN and addressed the ability to communicate with these mental health providers using a chat feature, ability to connect with school personnel on this topic and ongoing support resources.” [Link](https://resources.finalsite.net/images/v1643291014/killinglyschoolsorg/owwcyawyd07k7nnjs3dg/ParentConnectLetter2.pdf) During the 2020-2021 school year, the District participated a community *Mental Health Conversations Committee*, which provided an opportunity for community partners and school staff to meet to discuss the mental health needs of the community. Affidavit of Dr. Nash.

*Individual Student Supports*

The Board further advances its SEL Goal and Mission Statement by actively seeking out and developing individual programming for students requiring additional support. A total of 444 students who reside in Killingly qualify for special education services and supports. This number represents 18.6% of the student population, exceeding the state-wide eligibility rate of 16.7%. [Link](https://edsight.ct.gov/SASStoredProcess/guest?_program=/CTDOE/EdSight/Release/Reporting/Public/Reports/StoredProcesses/ConnecticutReportCard&_district=Killingly+School+District&_school=+&_select=Submit); Killingly District Profile and Performance Report for School Year 2019-2020, Exhibit \_\_. A total of 253 Killingly students, or 10.3% of the student population, qualify for accommodations under Section 504 of the Rehabilitation Act of 1973. Affidavit of Dr. Nash, Exhibit 3. The number of students in the District determined to have a disability has increased across the most recent five-year period, from 378 in 2017-2018 to 444 in 2021-2022, despite an overall decline in the student population, from 2,145 total students during 2017-2018 to 1,943 total students during the 2021-2022 school year. The percentage of students with disabilities has increased from 15% to 18.6%, with the District’s identification of students with disabilities exceeding the statewide averages. [Link](https://edsight.ct.gov/SASStoredProcess/guest?_program=/CTDOE/EdSight/Release/Reporting/Public/Reports/StoredProcesses/ConnecticutReportCard&_district=Killingly+School+District&_school=+&_select=Submit); Killingly District Profile and Performance Report for School Year 2017-2018, Exhibit \_\_. The District has placed a total of 54 students in out of district therapeutic special education schools due to a determination that their needs warranted support beyond the capabilities of the District to provide. Affidavit of Dr. Nash, Exhibit 3.

While an increase in District identification and outplacement rates may be perceived by some as cause for concern, the District submits that any such criticism would be unwarranted. Rather, an increase in identification and outplacement rates should be viewed as reassuring data that the District has not been constrained by arbitrary limits of resources, but has worked successfully and in compliance with law to identify the largest group of students who require additional supports. Increased pandemic related needs are well documented. A corresponding increase in identification and outplacement rates should not be unexpected.

*Board Policies*

The Board also advances its SEL Goal and Mission Statement by adopting policies and procedures including, without limitation, a Suicide Prevention and Intervention Policy ([Link](https://z2policy.cabe.org/cabe/browse/killingly/killingly/z20000275); Killingly Board of Education Suicide Prevention and Intervention Policy and Regulation, 5141.5, Exhibit \_\_) and a Safe School Climate Plan ([Link](https://z2policy.cabe.org/cabe/browse/killingly/killingly/z20000233/JD_5131.911); Killingly Board of Education Safe School Climate Plan Policy and Regulation, 5131.911, Exhibit \_\_), among other relevant policies. The school administration has taken numerous actions to implement these policies only a few of which have been mentioned in this document.

*Exploration of a SBHC*

During the Spring of 2021, the District administrators investigated the possibility of supplementing the District’s SEL offerings by implementing a School-Based Health Center. The District engaged Generations Family Health Centers, Inc. (“Generations”) in the development of a proposed behavioral health SBHC. Generations provided an implementation plan document to describe how the SBHC would function. SBHC Implementation Plan, Exhibit 7. Creation of the proposed SBHC required Board approval. On January 12, 2022, the Board discussed the proposed Contract between the Board and Generations to operate a behavioral health clinic open to students and their family members for an anticipated duration of five-years. Under the terms of the proposed Contract, the Board would have no role in the operation of the SBHC and Generations would have full responsibility for the operation of SBHC operation. The proposed Contract called for the Board to provide, free of charge, Generations designated space within Killingly High School (including a reception area and therapy room) for its exclusive use. The Board was also obligated to provide “at its expense, heating, cooling, electrical, lighting, water, local telephone and data, and custodial services” for the SBHC.

On January 12, 2022, the Board voted to postpone action on the SBHC contract until more information could be gathered. The Board also planned a public forum. Minutes of the January 12, 2022 Killingly Board of Education Meeting, Exhibit 8. During the January 12th meeting, certain Board members expressed concerns about issues related to the establishment of a SBHC, such as: 1) billing practices, 2) the cost to the District of providing utilities and custodial services, 3) issues related to parental consent for the behavioral health services, 4) student confidentiality, 5) location within the school building and 6) liability concerns. Other Board members spoke in support of the SBHC proposal. [Link](https://www.nfhsnetwork.com/events/killingly-high-school-dayville-ct/evtac30e0d8b4); Minutes of the January 12, 2022 Killingly Board of Education Meeting, Exhibit 8.

After the January 12th meeting, the Board continued to discuss the SBHC proposal, and hear public comment regarding the same, as well as discussion concerning revisions to the proposal and alternatives to the same, at its meetings on January 26, February 9, February 23, March 9, 2022. Minutes of the January 26, 2022 Killingly Board of Education Meeting, Exhibit 9; Minutes of the February 9, 2022 Killingly Board of Education Meeting Minutes, Exhibit 10; Minutes of the February 23, 2022 Killingly Board of Education Meeting, Exhibit 10; Minutes of the March 9, 2022 Killingly Board of Education Meeting, Exhibit 11; March 9 Minutes, Exhibit 12. The Board held a public forum regarding the proposed SBHC on Monday, February 7, to gather feedback from the community. Approximately sixty-five people attended the public forum either in person or via Zoom. Of those who chose to speak, ten people were in favor and five people had concerns regarding the proposed SBHC. Minutes of the February 9, 2022 Killingly Board of Education Meeting, Exhibit 10. At its February 9th meeting, the Board discussed the SBHC proposal further. One Board member had “many questions as she tried to ensure this initiative was successful.” Some “Board members expressed their support” for the SBHC, while other Board members requested “more information regarding logistics and planning in order to make an informed decision.” The Board voted to postpone the decision on the SBHC to a later date. Minutes of the February 9, 2022 Killingly Board of Education Meeting, Exhibit 10.

As the SBE is aware, SBHCs are not mandated by law, but, rather, are “the result of partnerships between the schools in which they are located, the sponsoring agency and the community.” There are only twelve limited-service (e.g., behavioral health only) clinics state-wide. [Link](https://portal.ct.gov/-/media/DPH/School-Based-Health-Centers/SBHC-FS-4920-Final.pdf) In February 2022, the Connecticut SBHC Expansion Working Group issued its Final Report. According to the report, during the 2020-2021 school year, the Connecticut Department of Public Health funded 90 SBHCs (including 12 expanded school based health centers). These sites are located in 28 school districts in Connecticut, and these school districts serve a total student population of approximately 67,200, which is about 13% of Connecticut’s overall student population. Killingly was one of the 21 towns/municipalities in Connecticut that the Working Group recommended for expansion of SBHC access, as described within the Final Report. With that said, Connecticut SBHC Expansion Working Group scored each of the proposed sites in Killingly at the bottom (tied for last) on the site recommendation list, indicating that, among the 157 recommended sites for SBHC expansion, the Killingly sites were a relatively low priority for the Working Group. [Link](https://portal.ct.gov/-/media/DPH/School-Based-Health-Centers/PA-21-35-SBHC-Report-FINAL.pdf)

At the March 9th Board meeting, the Superintendent noted the inclusion of an updated SBHC Contract in the Board materials. The Board took no action on the SBHC on March 9th. Minutes of the March 9, 2022 Killingly Board of Education Meeting, Exhibit 12. The Board conducted a vote related to the SBHC at its March 16, 2022 special meeting. A motion was made to approve the Contract for the proposed privately-operated school-based health center to be housed at Killingly High School. The motion failed, with six Board members voting against the motion and three Board members voting in favor of the motion. Minutes of the March 16, 2022 Killingly Board of Education Meeting, Exhibit 13.[[4]](#footnote-4)

*Continued Discussion of Students’ Mental Health Needs*

The Board has, both prior to and after its March 16th vote, continuously expressed its belief that SEL programming and initiatives are of critical importance. The Board has continued to explore alternative proposals to continue to support SEL expansion. At its April 13th meeting, the Board discussed alternatives to the SBHC proposal. The Board also elected a new Chairperson, after the resignation of Janice Joly from the Board. One Board member presented a document to Board before the meeting started with her suggestions of an alternative to SBHC. This particular Board member expressed concerns about all students having on-demand access to the SBHC, regardless of their educational identification. Another Board member discussed contracting with a provider to offer Zoom support sessions versus holding such sessions on site in the school. A third Board member agreed that “something needs to be done”, and shared information about *Rachel’s Challenge*, a K-12 program focused on reducing school violence, bullying, and mental health. The Board discussed the possible establishment of a SBHC on a shorter-term basis, or the implementation of a one-year pilot program. The Board directed the Superintendent to gather additional information regarding the parental opt-in/opt-out for mental health services, in order to address one aspect of the SBHC that specific Board members had questioned. The issue of parental rights was a concern for some Board members. Draft Minutes of the April 13, 2022 Killingly Board of Education Meeting, Exhibit 15. At its April 27th meeting, the Board continued to discuss options to increase social-emotional programming and resources for students. [Link](https://www.nfhsnetwork.com/events/killingly-high-school-dayville-ct/evt9df9d1c999)

Students are facing increased stress that results in substantial social and emotional challenges, and the Board has acknowledged this reality. Studies and surveys have documented how student mental health has suffered nationally since the start of the pandemic. These reports raise increase concerns about mental health, increased incidents of self-harm, increased suicidal ideation, expressions of loneliness, less frequent positive behaviors including future planning and maintaining positive peer relationships, and an increase of over thirty percent in hospital visits related to youth mental health. [Link](https://crpe.org/wp-content/uploads/SEL-report-2021-final-8-10.pdf) A national increase in student disciplinary incidents has been documented. [Link](https://www.myjournalcourier.com/news/article/COVID-19-hardships-fuel-increase-in-violent-16718139.php) On December 7, 2021, pandemic-related and other issues led the Surgeon General of the United States to issue a Surgeon General’s Advisory regarding the “Youth Mental Health Crisis” in the United States. [Link](https://www.hhs.gov/about/news/2021/12/07/us-surgeon-general-issues-advisory-on-youth-mental-health-crisis-further-exposed-by-covid-19-pandemic.html); U.S. Surgeon General Advisory on Youth Mental Health Crisis Further Exposed by COVID-19 Pandemic, December 7, 2021, Exhibit \_\_. The American Academy of Pediatrics has also issued a “Declaration of a National Emergency in Child and Adolescent Mental Health.” [Link](https://www.aap.org/en/advocacy/child-and-adolescent-healthy-mental-development/aap-aacap-cha-declaration-of-a-national-emergency-in-child-and-adolescent-mental-health/); American Academy of Pediatrics: Declaration of a National Emergency in Child and Adolescent Mental Health, October 19, 2021, Exhibit \_\_.

The impacts of the national youth mental health crisis have been seen in Killingly. The Complaint cites 500 unplanned visits (i.e., “responsive” counseling sessions) to the High School counseling office during the early months of the 2021-2022 school year. The number of these unplanned, or “responsive” counseling sessions, was recently determined to have increased to 660 responsive counseling sessions during the current school year. Affidavit of Dr. Nash, Exhibit 3. District employees have worked hard to meet the increased need and have developed tools to identify the students most in need, so that they can receive priority access to counseling. Counseling Priority Form, Exhibit 16.

Visits to the nurse have increased from a total of 3,069 visits during the 2020-2021 school year to 3,581 through April 26 of the 2021-2022 school year. Affidavit of Dr. Nash, Exhibit 3.

At the most recent Board meeting on April 27, 2022, the Board directed the Superintendent to provide additional information about both the SBHC and alternative ways that the District can provide additional supports to address student social and mental health needs, such as peer mentoring programs. Draft Minutes of the April 27, 2022 Killingly Board of Education Meeting, Exhibit \_\_. The Superintendent is planning to share this information at the May 11, 2022 regularly scheduled Board meeting.

**III. Respective Authority of the State and Local Boards of Education:**

Conn. Gen. Stat. § 10-4a sets forth the educational interests of the state in providing free public education. Connecticut courts have examined the respective roles of the state and the local [and regional] boards of education in various cases in which the state’s interests have been analyzed and articulated. “The state’s responsibility for education is distributed through . . . the statutory framework. The state board is charged with broad and general power to supervise and control the educational interests of the state.” *New Haven v. State Bd. of Educ*., 228 Conn. 699, 703 (1994) (internal quotation marks omitted). Although “the furnishing of education for the general public is a state function and duty . . . [b]y statutory enactment the legislature has delegated this responsibility to the local boards who serve as agents of the state in their communities . . . . Our statutes have conferred on the local board broad power and discretion over educational policy.” *West Hartford Educ. Ass’n, Inc. v. DeCourcy*, 162 Conn. 566, 573 (1972) (citations omitted; emphasis added). Conn Gen Stat.§ 10-220 “does not even mention safety protocols or procedures, apart from stating that boards of education shall provide a safe school setting.” *Lewis v. Newtown Board of Education*, 2018 WL 2419001, at \*5. The Lewis court explained however that local boards of education act within their discretionary authority when implementing the safe school mandate found in Section 10-220. *Id.*

Connecticut Courts have recognized a “longstanding policy in Connecticut of local, rather than state, control over schools and school districts, as evidenced in the statutory scheme governing local and regional boards of education.” *Pereira v. State Bd. of Educ*., 304 Conn. 1, 30 (2012) (citation omitted). Indeed, “[n]o single tradition in public education is more deeply rooted than local control over the operation of schools.” *Milliken v. Bradley*, 418 U.S. 717, 741 (1974); *Martinez v. Bynum,* 461 U.S. 321, 329 (1983). This control is embedded in Connecticut's statutory scheme governing boards of education. Although [t]he state board is charged with the broad and general power to supervise and control the educational interests of the state,” the State Department of Education is not in a position to review the myriad of day to day decisions about local school operations and it is well settled that the legislature has “delegate[d] the duty to provide and administer public education to local and regional boards of education.” *Pereira* at 33. Indeed, Conn. Gen. Stat. § 10-220 states specifically that “each local or regional board of education shall maintain good public elementary and secondary schools, implement the educational interests of the state, as defined in section 10-4a, and provide such other educational activities as ***in its judgment*** will best serve the interests of the school district” reinforcing the legislative public policy that decision that by design local boards are “separate and distinct” from the state board and, “by their very nature, are most responsive to the needs of the local school district and the will of the local population.” *Pereira*, 304 Conn at 32.

These statutes help to define the role of the SBE when reviewing a §10-4b complaint. Although the SBE has an important supervisory role to ensure that local boards are not failing to provide appropriate educational services to their students, the SBE is not in a position to override the judgment of a local board about which of many possible ways it can choose to do so. Instead, “our legislature has . . . demonstrated a clear policy of defining a supervisory role for the state board separate and distinct from local boards, which, by their very nature, are most responsive to the needs of the local school district and the will of the local population.” *Id*. at 32. Conn. Gen. Stat. “Section 10-220 ‘delegates the duty to provide and administer public education to local and regional boards of education.’” *Pereira*, 304 Conn. at 33 (citations omitted). “The chief function of local boards of education is to serve as policy maker on behalf of the state and for the local community on educational matters . . . [Conn. Gen. Stat. Section 10-220] “sets forth the duties of all boards of education but does not prescribe the manner in which these duties are to be performed.” *Id.*

**IV. Standard of Review:**

As cited above, the SBE’s review of this Complaint and its investigatory activities with respect to same are necessarily limited to a determination of whether reasonable cause exists to support a conclusion that Killingly has failed to provide a safe setting for students. Conn. Gen. Stat. § 10-4b and its implementing regulations set forth the process for the SBE to follow in its review of the Complaint. Conn. Gen. Stat. § 10-4b(a) defines the scope of this investigation as an inquiry whether “there is reasonable cause to believe that a local or regional board of education has failed or is unable to make reasonable provision to implement the educational interests of the state as defined in section 10-4a.” See also, Regs. Conn. State Agencies § 10-4b-7.

Importantly, the question before the SBE is not whether, in the state’s opinion, a school based health center would be beneficial or aid the Board in providing a safe setting for Killingly High School students. When seeking review under Conn Gen Stat. § 10-4b, the Complainants are not empowered by statute or regulation to ask the SBE to substitute its judgment for the decisions made by local board in the exercise of the local board’s broad discretion. If the statutory and regulatory framework under Conn. Gen. Stat. Section § 10-4b permitted review of each decision of a local [or regional] board of education, the SBE would be flooded with requests from local communities for review of individual board decisions on a myriad of issues. Rather, the SBE must review whether there is reasonable cause to believe that a local [or regional] board of education has failed to implement the interests of the state.

Accordingly, in the instant case, and given the broad delegation of authority to locally elected officials to determine the methods and means of providing a safe setting, SBE review must be limited to whether Killingly has met its obligations to provide fair, equitable and safe educational services, rather than an inquiry as to whether those methods and means are those preferred by the Complainants or the most cost-effective means. A review of the actions Killingly has taken to serve the whole student, including students’ mental health needs, before and during the pandemic, demonstrates clearly that Killingly has addressed school safety issues in a manner compliant with Conn. Gen. Stat. §§ 10-4a and 10-220(a). Consequently, the Complaint should be dismissed.

1. **The Complaint Is Premature**

In describing the time for filing a § 10-4b Complaint, Regulation 10-4b(3) provides that a resident of the 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. Per the regulation, such Complaint shall include “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.”

The Complainants cannot make this showing here. The District itself initiated the exploration of a school based mental health clinic in the spring of 2021. Affidavit of R. Angeli, Exhibit 3. District administrators developed a SBHC proposal that was first presented to the Board for its consideration in January 2022. Minutes of the January 12, 2022 Killingly Board of Education Meeting, Exhibit \_\_. The Board subsequently voted on a proposed 5 year agreement with a private provider for a SBHC at a Board meeting held on March 16, 2022. Minutes of the March 16, 2022 Killingly Board of Education Meeting, Exhibit \_\_. This Complaint was filed shortly thereafter, on April 4, 2022, despite the fact that the Board continues to review SBHC proposals and other initiatives to address student safety and mental health. Indeed, at the Killingly Board of Education Meeting held on April 27, 2022, the Board considered two pertinent agenda items. First, Item 10 “Discussion Regarding A School Based Health Center at Killingly” and Item 11 Discussion Regarding Alternative and/or Additional Support Initiatives Related to School Based Health Center. Draft Minutes of the April 27, 2022 Killingly Board of Education Meeting, Exhibit \_\_\_.

On April 27th, the Board discussed a revised SBHC proposal, and directed the Superintendent to provide the Board with further information. Draft Minutes of the April 27, 2022 Killingly Board of Education Meeting, Exhibit \_\_\_. . Given the Board’s continuing focus on student safety and student mental health considerations, including the conditions under which a SBHC could be established, the SBE lacks grounds to conclude that the Respondent 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.” Accordingly, review and investigation by the SBE is premature.

1. **Specific Allegations and Responses:**

Boiled down to its essence, the Complainants allege that the Board’s vote on March 16, 2022, in which a majority of the Board members voted against entering into a five year contract with Generations to operate a SBHC at Killingly High School, amounts to a “failure to implement the educational interests of the state.” Complaint, Exhibit 1 at 1-2. The Complainants’ stated efforts to resolve the Complaint focus solely on their advocacy for the SBHC proposal. Complaint, Exhibit 1 at 6-7. Thus, although the Complainants acknowledge that an SBHC is “certainly not the only way by which a local board of education can meet its obligations” to provide a safe school setting (Complaint, Exhibit 1 at 8), the Complaint alleges specifically and inaccurately that “the Killingly Board of Education has failed to avail itself of **any** alternative mechanism of meeting the social, emotional and mental health needs of all of its students.” Complaint, Exhibit 1 at 8.

The Complainants further allege, without support, that Killingly has “refused to address a critical education need…” Complaint, Exhibit 1. These allegations ignore, without justification, the diverse and substantial services, means and methods that Killingly currently employs to provide for the safety of students, including services related to students’ mental health needs and the increased needs created by the pandemic. Although the Board vote on March 16, 2022 did not result in an endorsement by the Board of the SBHC proposal before the Board on that date, contrary to the conclusory assertions of the Complainants, the failure of a single student safety initiative or proposal does not equate to an abrogation by the Board of its obligations with respect to implementation of the educational interests of the state.

Moreover, as discussed below, the facts and circumstances identified in the Complaint do not support any conclusion that the Board has failed to provide students with a safe setting in which to learn. The general allegations in the Complaint, and the Board’s responses to same, are set forth below:

1. *Allegations about Conditions at the High School*

The Complaint presents information about the needs of Killingly High School students and societal conditions generally, without acknowledging any efforts that the Board has made to address these identified needs and conditions. After presenting information about the identified needs and conditions, the Complainants reach an unsupported and inaccurate conclusion that Killingly is “failing” to provide a safe high school environment. As discussed below, these unsupported conclusions are not supported by the evidence.

***Allegation:*** A survey of KPS students includes responses indicative of increased and serious mental health needs in the student population.

***Response:*** Killingly does not dispute the allegations in the Complaint that the mental health needs of its students, like those of students across the country, have increased as a result of the COVID-19 pandemic. Indeed, as indicated in a report cited in the Complaint, the Killingly Public Schools along with other community partners commissioned SERAC to conduct a survey of its intermediate and high school students on a variety of issues including mental health concerns. SERAC Killingly Youth Survey 2021: Final Report December 2021, Exhibit 20. This survey confirmed Killingly’s conclusion that its students had suffered increased stress from the pandemic. Affidavit of Dr. Nash, Exhibit 3. However, the implication in the Complaint that either the Board or District administrators were unaware of or indifferent to the impact of COVID-19 on student mental health before the SERAC survey does not logically follow. In fact, as noted above, Killingly did not wait for the SERAC survey results to initiate actions to address increased student mental health needs by providing training initiatives for staff, resources for families and additional student support services.

Accordingly, the SBE must conclude that the Complainants’ allegation that Killingly has done “nothing” to address the mental health needs of students is patently false.

*Allegation****:*** Killingly District data demonstrates that post-pandemic, student requests for mental health assistance have increased.

*Response****:*** No local board of education should be criticized because its students have increased health care needs because of the pandemic. The statistical information cited by the Complainants of increased nurses’ visits and mental health needs at Killingly High School does not demonstrate that Killingly High School is an unsafe school environment. An increase in requests for support is a recognized and common symptom of the societal issues created by the pandemic. Rather, the existence of the health data and the student support activities that this data documents should be viewed as evidence that Killingly is actively addressing student mental health needs as they are presented to school based personnel, and that students trust and rely on school personnel to provide needed mental health supports.

In addition, the health data, which identifies the number of nurse visits but not how many different students are involved, also does not show whether these visits are part of an individualized student support plan, or how Killingly support staff have responded to nurses’ visits by addressing the concerns with the student or the student’s family or by making a referral for evaluation or using the SRBI process. Nurse data alone does not explain what student needs are present or how those needs should be addressed. Students returning to school in the Fall of 2021faced many challenges including but not limited to: 1) mask wearing, 2) fear of contracting COVID-19 and becoming ill or infecting a family member, 3) stress caused by a return to a full day in the school environment, and 4) concerns about learning loss. Data documenting that Killingly students are using nursing and other adult supports such as counselors to discuss these needs does not demonstrate that Killingly High School is unsafe in any way.

*Allegation****:*** KPS has difficulty recruiting and retaining staff. KPS has had a school counselor vacancy since August 2021. KPS has had a school psychologist opening that remains unfilled. Staff members are struggling to fulfil their obligations to students and staffing shortages have created a need for staff members to cover for one another.

*Response****:*** The Complainants unjustifiably blame Killingly for school staffing issues despite widespread acknowledgement of state, regional and national staffing shortages, particularly in education related fields. Pew Trust Article, Exhibit 21. But more significantly, the Complainants erroneously claim that Killingly took no action to address staffing issues. This assertion is false. Killingly has not been passive about finding alternative ways of serving the needs of its students. In response to the difficulties that Killingly experienced in hiring a school psychologist, Killingly contracted with outside licensed clinical psychologists to conduct psychological evaluations of students as a means of fulfilling its obligations under the Individuals with Disabilities Education Act (“IDEA”). Affidavit of R. Angeli, Exhibit 3. Further, the Board hired a school social worker in March 2022, attracting and hiring an appropriately credentialed candidate, despite the difficult market. Affidavit of R. Angeli, Exhibit 3.

Killingly has also developed a priority system that ensures that students with the most urgent needs will displace a routine appointment for another student. Counseling Priority Form, Exhibit 16 Admittedly, the priority system is not Killingly’s preferred method of providing mental health services, but the existence of the system does not support a finding that the Killingly High School is unsafe. Rather, it demonstrates that the District is thoughtfully ensuring that acute student need is prioritized. In such circumstances, it is not surprising that one staff member expressed that she would prefer to spend time providing direct student services than fulfilling a standard requirement that staff spend time supervising lunch, recess or arrival and dismissal. Nonetheless, the act of requiring one staff member to cover for another staff member in order to provide appropriate supervision, while unfortunate, does not equate to a failure to implement the educational interests of the state. Appropriate supervision, of course, is also an important safety consideration.

Prioritizing student needs and requiring staff members to provide student supervision in these circumstances do not make Killingly High School an unsafe school.

*Allegation****:*** Students are experiencing mental/behavioral health and social issues that are interfering with their ability to learn. Student disciplinary incidents and destruction of property have increased at KHS.

*Response****:*** Killingly acknowledges that students continue to be in need, and that student mental and behavioral issues affect learning. Killingly also acknowledges that disciplinary incidents (including vandalism), have occurred at its high school. Affidavit of Dr. Nash, Exhibit 3. Similar to the conditions noted above, such increases are reflective of wider societal trends and are attributed, by some, to pandemic related stresses. Pew Trust Article, Exhibit 21.

However, the extent of the incidents of unsafe behavior and/or vandalism do not equate to an unsafe school environment, even if specific incidents are concerning. The data for the SBE to review with respect to these concerns is not whether incidents have occurred or even increased, as the pandemic and societal forces affecting student behavior are not within the control of the Board. Rather, the SBE should review the extensive steps that Killingly has taken to address these school climate and disciplinary issues, summarized herein. Unfortunately, the Complaint fails to address or acknowledge these efforts, leaving the SBE and the Killingly community with the false impression that the Board is indifferent to these concerns.

As discussed in more detail herein, the Board has implemented a myriad of supports, trainings and services designed to enhance safety, address good behavior, support mental health needs of students and provide appropriate training to staff to deal with the increased needs of the student population.

*Allegation****:*** The failure of the Board on March 16, 2022 to approve a SBHC at Killingly High School left KHS students “without access to mental/behavioral health services necessary to support their social-emotional and educational needs.”

*Response****:*** As discussed in more detail herein, the Board’s decision-making process pertaining to the SBHC proposal involved multiple meetings of the Board and culminated in a failed vote on March 16, 2022. Minutes of the March 16, 2022 Killingly Board of Education Meeting, Exhibit 13. As documented by the meeting minutes from various Board meetings, the Board’s deliberations about whether to enter into a five year contract with a private provider to operate a SBHC at Killingly High School involved policy considerations that extend well beyond the benefit of students and their families having access to a local mental health provider who would provide private counseling services three days per week to those students who may choose to use such services. The Board’s discussions noted the concern that the Board would have responsibility for providing services when the Board had no control over the scope of quality of the services being provided, unlike every other service provided by the Board on school grounds. Affidavit of R. Angeli, Exhibit 3

In reviewing this issue it is important to recognize that the Complainants and other members of the community may have misinterpreted the term “school based health center” because “school based” refers to location and not to control and oversight by the public schools. As the SBE is aware, a school based health center is an independent mental health clinic operated under the auspices of the Connecticut Department of Health and not a local board of education. Although such programs work closely with the school districts in which they are located, SBHCs operate independently from local boards of education. The staff of a SBHC are not public school employees and are not subject to board supervision and control. The private provider chooses, trains and remains responsible for the personnel, without input from the local board. Communications between patients (including but not limited to students) and the SBHC are covered the Health Insurance Portability and Accountability Act of 1996, as amended 42 USC §1320d-9 (“HIPAA”), the federal confidentiality statutes governing the privacy of medical information and therefore communications between any students and the SBHC cannot be shared with school staff in the absence of a release or a HIPAA exception. These various concerns were expressed by Board members in the many discussions pertaining to the SBHC proposal. These are legitimate and appropriate areas of exploration and even disagreement among individual Board members and members of the community.

Killingly recognizes that the State has authorized and encouraged local boards to use public school facilities to house private health centers to provide private medical care, vaccinations, dental care, vison screenings and mental health care. In addition, the legislature has endorsed exploration of potential sites that should consider creating a school based health center and Killingly has been identified as one such community. However, most significantly, the legislature has made clear that the decision as to whether and in what way a local board should permit a SBHC on school grounds is a decision for the local board of education. The evidence shows that Killingly has carefully studied the establishment of an SBHC at Killingly High Schools, and, to date, has not yet determined that having an SBHC at Killingly High School is the proper decision to make for the Killingly school community. The Complainants obviously disagree with that decision and continue to advocate for a SBHC at Killingly High School. In these circumstances, however, the § 10-4b process should not be used to compel a local board to adopt a SBHC proposal, particularly when, as here, a local board has focused significant resources on mental health supports and continues to explore additional supports.

*Allegation****:*** The ProposedSBHC is the ***best*** way to address the mental health care needs of Killingly High School students.

*Response****:*** The Complainants allege several reasons to support their assertion that the creation of the proposed SBHC is ***superior*** to any alternative action by the Board. For example, the Complaint alleges that a Board decision to hire additional school staff is inappropriate because it would require an expenditure of Board funds where the proposed SBHC would not. The Complainants’ assumption that the operation of the proposed SBHC would not require any additional budget expenditures is not necessarily accurate, however, as the establishment of an SBHC will require the Board to allocate resources in terms of existing space, utility and custodial costs as well as additional personnel for security during school hours. In addition, the District would need to determine how to provide security for anyone going to or from the SBHC after traditional school hours. There is an argument that the security considerations of an outside organization serving the community on campus will create additional safety concerns, as individuals other than staff members and students will have regular access to the building. But most significantly, the Board must exercise its judgment on whether to incur expenditures to provide resources that it controls rather than to permit the operation on school grounds of a private clinic over which it has no supervision of the personnel and the services being provided. That decision is one properly left for the local board of education, rather than the SBE as part of the review of a § 10-4b complaint.

In sum, the conditions about which the Complainants express concern, pandemic related stress, increased mental health needs and staffing shortages, are societal conditions that are not unique to Killingly and indeed are being experienced throughout the state. However, increased student mental health needs, nurses’ visits and disciplinary incidents in the wake of the pandemic do not demonstrate an unsafe school environment. If this were the case, every school in Connecticut would need to be cited as unsafe. Similarly, if the challenges posed by staffing shortages equate to an unsafe school setting, most school districts would be found to be in violation of state statute at this time as staffing shortages are a statewide and nationwide issue. Killingly has and is responding to this shortage in a responsible way. The § 10-4b review process should not be expanded to permit routine review by the SBE of how a school system exercises its judgment as to specific school initiatives, including whether to create a school based health center. A Board preference for allocating for addressing student mental health needs with resources hired and supervised by the Board is well within its discretion.

The decision whether to permit a SBHC to operate in a particular school district remains a decision committed to the discretion of the local board of education. Therefore, the Board’s March 16th vote not to approve the 5 year SBHC proposal cannot by itself be considered a specific failure to implement the educational interests of the State.

Killingly does not contest the substantial benefits of increasing the ease of community access to medical supports, including mental health supports. Similarly, however, it is not appropriate to be dismissive of Board members’ legitimate concerns about whether this is an option that the Board wishes to endorse. As the Complainants acknowledge “[a] school-based health center is certainly not the only way by which a local board of education can meet its obligations under § 10-220…” Complaint, Exhibit 1 at 8. Yet, by filing this Complaint, the Complainants seek to override the Board’s discretion to choose whether to create a SBHC at its high school or to continue to explore and implement other options.

1. **Killingly Provides a Safe School Setting for Students**

This Complaint does not identify any unsafe condition at Killingly High School. Instead, the Complaint alleges that because the Killingly community lacks easy access within its borders to private mental health care providers, it would be prudent for the District to add the resource of a private clinical social worker services on site at its high school three days per week through the proposed SBHC. The ease of access to mental health services for the greater Killingly community is beyond the scope of the § 10-4b complaint process. Of concern, however, is the Complainants’ contention that, in the absence of an onsite private mental health resource at Killingly High School, Killingly High School is not a “safe” environment in which students are to receive educational services.

The greater community question about whether the Killingly community may be underserved by private mental health facilities, alone, does not make Killingly High School “unsafe” or demonstrate a failure by Killingly to fulfill its obligation to provide appropriate educational services to its students. As our Connecticut Supreme Court has stated: (‘‘[schools] cannot be constitutionally required to overcome every serious social and personal disadvantage that students bring with them to school, and that seriously hinder[s] the academic achievement of those students’’ [internal quotation marks omitted]).*Connecticut Coal. for Just. in Educ. Funding, Inc. v. Rell,* 327 Conn. 650, 736 (2018).

The Complaint seeks to compel the SBE to order the corrective action of requiring Killingly to contract with a private provider to operate a SBHC on campus by claiming, without any supporting evidence, that “the Killingly Board of Education has failed to avail itself of ***any***alternative mechanism of meeting the social, emotional and mental health needs of all its students.” This statement is demonstrably false. The Complaint makes additional broad brush allegations that are misleading.

 While this response does not fully explore all of the ways that Killingly works to create a safe and nurturing learning environment, as noted above, the Board operates its Family Resource Center for preschool students, employs SEL programs in elementary schools, utilizes PBIS to teach peer support and acceptance of diversity, implements anti-bullying measures, encourages teamwork skills through sports and clubs, provides special education supports, provides a health curriculum that includes information on mental health concerns, implements suicide prevention protocols, utilizes peer mentoring, uses restorative practices, and trains its staff in trauma informed practices. A brief summary of some of the significant programs and services related to student safety follows below.

*The District provides sufficient personnel adequately trained to support students’ mental health and social-emotional needs*

The Complaint erroneously states that the March 16th vote has left Killingly students “without access to the mental/behavioral health services necessary to support their social-emotional and educational needs,” without providing evidence to support this conclusory statement. Indeed, the Complaint fails to acknowledge the efforts of staff, and the resources and programming dedicated to support students’ mental health District-wide. If one were to read only the Complaint, without further investigation, one would be left with the impression that the Board is neither concerned with nor supports students’ mental health and social-emotional needs. Further investigation, however, contradicts the impression left by the Complaint.

The Complaint bases the claim that students lack access to mental/behavioral health services on a lack of staffing. As discussed above, staffing data establish that the Board dedicates substantial resources to student support positions supporting the social, emotional, and mental health needs of its students. Further, the Complaint’s claims regarding specific staffing concerns do not withstand scrutiny. The Complaint cites an unfilled psychologist position but does not clarify that a school counselor was hired to fill that position when a psychologist candidate could not be identified, or the fact that the District contracted with outside psychologists to perform student evaluations. The Complaint also fails to cite the hiring in March 2022 of an additional social worker.

The Board has also invested significant resources to staff training and programming focused on supporting student mental health. The District established Social Emotional Learning Committees to address these important issues in the District’s schools. Affidavit of Dr. Nash, Exhibit 3. These Committees selected the *RULER Program* for implementation to support students’ social emotional well-being. Affidavit of Dr. Nash, Exhibit 3. In addition, as noted above, other resources have been developed, accessed and/or adopted, including implementation of the *Sandy Hook Promise* and *Restorative Practices* training, establishment of a restorative room at KIS and staff training concerning ways that Adverse Childhood Experiences (”ACEs”) affect social and emotional development, training with Dr. Sharon Saline at KHS and holding a *Wellness Day* at KHS tointroduce students to strategies for self-care. Affidavit of Dr. Nash, Exhibit 3. At the lower grades, staff engaged in a two-year training by Vivian Batterson regarding social-emotional learning, the *Circle of Courage*, impacts of trauma, and strategies to use when working with children. Affidavit of Dr. Nash, Exhibit 3. District staff at the early grades also received training in *Responsive Classroom* strategies and training regarding ACEs affect social and emotional development. Affidavit of Dr. Nash, Exhibit 3.

The District has engaged in other forms of learning regarding social-emotional needs of its students. It organized viewing of the documentary, *Resilience*, to provide staff with knowledge about adverse childhood experiences and stress. After viewing the film, staff from each District school worked in small groups to reflect on what was learned and how to apply this knowledge in the high school environment,Discussion topics include the impact of adverse childhood experiences strategies to incorporate the learning into practice. Toxic stress and trauma informed practices are utilized so that staff are better equipped to recognize and assist students who are displaying need for support. In a similar vein, Killingly provided *Anti-Defamation League (“ADL”)* training for staff during the current school year.

These extensive trainings demonstrate that Killingly’s supports for student mental health issues are not limited to counselors and social workers but extended to all staff, thereby providing expanded resources to a larger number of students. By receiving such training, all staff are better able to address stress management and resilience in lesson plans but also staff have learned to recognize and reach out to students who were experiencing distress. Instead of being seen as evidence of failure, the large number of student support visits to nurses and counselors demonstrate that students were aware of and comfortable enough to acknowledge the need for this support. The evidence establishes that the District has provided “sufficient personnel adequately trained” in compliance with the constitutional standard established in *CCJEF v. Rell*. 327 Conn. 650, 736 (2018).

 In addition to the school-wide and community supports described above, the District provides individual services to students through special education and Section 504 plans at rates exceeding the state-wide average. (Exhibit -) A total of 542 (444) students who reside in Killingly have been found to qualify for special education services and supports. (Exhibit -) Another 253 students, or 10.3% of the student population qualify for accommodations under Section 504 of the Rehabilitation Act of 1973. (Exhibit -) Consistent with the applicable legal requirements, this data establishes that approximately one-third of all Killingly students have had their individual needs, including social-emotional needs, reviewed by teams of professionals and, where appropriate, individually programmed for. As part of this effort, the District has placed a total of 54 students have been placed in out of district therapeutic special education schools due to a determination that their needs warranted support beyond the capabilities of the District to provide. (Exhibit -)

The evidence establishes that the District is actively pursuing students with heightened needs as part of the “child find” process, as demonstrated by the District’s identification of increasing numbers of students requiring individual supports each year. The data also suggest that the District’s efforts in support of students with individualized needs are effective. No requests for a special education due process hearing to challenge the appropriateness of such individualized programming were received during the most recent three year period. Affidavit of Dr. Nash, Exhibit 3. Only two Killingly parents filed for administrative review of their concerns during the same three year period. Affidavit of Dr. Nash, Exhibit 3.

This data demonstrates that Killingly had been and continues to respond to perceived student needs for emotional and mental health supports as part of its comprehensive educational programming. The District is also actively identifying students with unique individual needs and developing individual programming to meet the needs of such students at rates exceeding both the static and growth measures at the state level. (Exhibit -) The available evidence thus supports the conclusion that the Board has fulfilled its duty to provide a safe school setting in regard to student mental health and social-emotional well-being.

*Evidence of student need does not establish a local board of education’s failure to implement the educational interests of the state***.**

The Complaint attempts to establish that student needs are particularly acute in Killingly, but it does not cite any evidence to support any conclusion that the increase in student emotional and mental health concerns are unique to Killingly students, or that the Board has disregarded these concerns. An ever-growing body of evidence is establishing that students across the nation have been profoundly and negatively impacted by the pandemic, as well as other social and political issues facing the nation. U.S. Surgeon General Advisory on Youth Mental Health Crisis Further Exposed by COVID-19 Pandemic, December 7, 2021, Exhibit \_\_. The Complaint itself acknowledges the efforts of District staff to respond to the effects of this national crisis in Killingly. District staff are working harder than ever to meet the growing student need. Indeed, the basis of the Complaint’s claims of a mental health crisis also can be viewed as evidence of the outstanding efforts of District staff to meet increased demand. The Complaint documents increased counseling needs. The District has implemented a system to prioritize counseling requests so that any student with an acute need can see a counselor immediately. Counseling Priority Form. Where necessary, the District has outsourced functions, such as psychological testing, to help meet increased need. Affidavit of R. Angeli, Exhibit 3.The data showing increased nursing visits demonstrates that Students are willing to seek needed help and that they are receiving it. Affidavit of Dr. Nash, Exhibit 3. Some of the claims made in the Complaint are just plain wrong. For example, the Complaint alleges that the High School has only one operating bathroom when it has 10. Affidavit of Dr. Nash, Exhibit 3.

Killingly does not minimize the increased need combined with staffing challenges have resulted in rescheduled services and wait times. However, the claim in the Compliant that Killingly has failed to take “any” actions sufficient to address the emotional and mental health needs of its students is simply wrong. It also is wrong that a decision not to adopt the proposed SBHC makes the difference between Killingly meeting or not meeting its educational obligations to its students. The Complaint acknowledges that there are many ways to provide services to meet student needs. A SBHC is only one option and it is well within the Board’s discretion to decide whether or not to adopt this approach.

1. **Conclusion**

This Complaint is not about the failure of a board of education to provide an integrated and comprehensive educational program designed to meet the needs of all students in a safe and nurturing learning environment. Instead, it stems from a disagreement about a single decision of the Killingly Board of Education: whether or not the Board should provide space in its high school for Generations to provide private social work counseling services. By design, our education statutes have conferred on elected local officials the discretion to make such decisions. Our statutes allow school districts to use public school space to provide such services but does not compel any school district to do so. It is not appropriate to view the Generations proposal in isolation when determining if Killingly has put in place sufficient resources to create a safe school environment. The Board’s decision on this one issue does not make Killingly High School an unsafe school.

The Complainants have advocated for the Board to enter into a five year contract with Generations to establish a SBHC at Killingly High School. The Complainants are using the Conn. Gen. Stat. § 10-4b complaint process to request that the SBE investigate and force corrective action against the Killingly Board of Education as a means to have the SBE override the decision of the local board of education with respect to decision not to contract with Generations. Complaint, Exhibit 1 at 1.

For the reasons expressed below, Killingly respectfully submits that the SBE should not exercise its authority to override the Board’s current decision to decline to enter into a five year contract with Generations, for two primary reasons:

1. It is well settled that by design, our legislature has determined as a matter of public policy that the locally elected board of education is afforded broad discretion in its decision-making as to the most appropriate means and methods by which to provide for the student health and welfare needs for which the Board is responsible.

2. The information provided herein demonstrates conclusively that Killingly has and continues to fulfill its obligation to provide appropriate educational services to its students in a safe school setting and there is no reasonable cause for concluding that State intervention is required.

The Board denies any failure to implement the educational interest of the state, whether related to the social, emotional and mental health needs of its students or otherwise. The Board respectfully requests that the SBE dismiss the Complaint.

Respectfully submitted,

KILLINGLY BOARD OF EDUCATION

By \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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1. At the time of this complaint response, two of the 19 are on a short-term leave of absences. [↑](#footnote-ref-1)
2. The RULER Program is a research based SEL initiative designed by Yale University scholars to improve student social emotional outcomes. Hagelskamp, Brackett, Rivers & Salovey, *Improving Classroom Quality with the RULER Approach to Social and Emotional Learning: Proximal and Distal Outcomes*, Am J. Community Psychol, DOI 10.1007/s10464-9570-x 27, February 2013, Exhibit \_\_; Brackett, Reyes, Rivers, Elbertson, Salovey & Yale University *Classroom Emotional Climate, Teacher Affiliation, and Student Conduct*, Journal of Classroom Instruction Vol. 46.1 2011, Exhibit \_\_. [↑](#footnote-ref-2)
3. The research-based *Sandy Hook Promise’s Know the Signs* programs effectively teaches the prevention of school violence, shootings, and other harmful acts. Educators learn how to identify at-risk behaviors and intervene to get help. https://www.sandyhookpromise.org/our-programs/program-overview/. [↑](#footnote-ref-3)
4. District and Town staff attempted to have the March 16 Board meeting video recorded. Due to technical difficulties, a recording was not successfully generated, despite the efforts of both District and Town of Killingly staff. Affidavit of R. Angeli; April 7 letter from R. Angeli, Exhibit 14. [↑](#footnote-ref-4)