

Stratton Faxon

Connecticut's Firm for Trial Law

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VIA HAND DELIVERY

Mr. Daryl Jones
Controller, City of New Haven
City Hall
200 Orange Street
New Haven, CT 06510

Re: Basis for paying Board of Education Employee Healthcare

Dear Mr. Jones:

As you know I am on the finance committee for the Board of Alders. I am writing you this letter because I am quite concerned that that city is improperly and illegally paying the healthcare benefits for Board of Education employees. Without a legal, statutory or contractual basis for these payments, this should end immediately.

I have asked repeatedly for a breakdown of our self-insured health care fund to determine where the money is being spent. I have received no documentation from either you or Mr. Clerkin in response. Nonetheless, both of you acknowledged that the fund was being used to pay for some or all Board of Education employees. I have also asked the Mayor in writing two weeks ago for an explanation, and none has been forthcoming.

I have done as thorough an investigation as I can and determined the following:

1. **\$40 million spent with no authority?** Perhaps more than \$40 million per year of our self-insured health fund is being used to pay Board of Education employees healthcare. If true, this represents 15-20% of our true operating budget. Your office is either refusing or is delaying to provide the actual numbers;
2. **No budget disclosure or authority.** The operating budget contains no authority for payments to be made to education from our healthcare fund. In fact the operating budget indicates that the city's only authorized payment to the Board of Education is a cash one for approximately \$20m which has already been made, and has nothing to do with our health fund;
3. **No contract responsibility or duty.** The cases and state statutes all make it very clear that the board of education is not a city department, it is an independent state agency. The city has by statute no right to negotiate with Board of Education employees and teachers and administrators are all considered Board of Education employees with no employment relationship with the City. The Board of Education union contracts are signed by the Board of Education and the unions-not the city. Moreover the contracts say nothing about the city paying for Board of Education employee health benefits. The contracts in fact say the opposite: The Board of Education shall pay the benefits.
4. **No side agreement.** There is no written agreement between the Board of Education and the city that the city has authority to cover health costs.

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This is an extraordinarily serious matter. If healthcare money has been provided to Board of Education employees without authority and without reimbursement, this is massive malfeasance by your predecessors. Particularly worrisome is the fact that if it was paid, it was done so in a clandestine manner—meaning the amounts used to pay the benefits to Board of Education employees were 1) commingled into city employee healthcare funds in the approved “NON-EDUCATION” budget; and 2) far in excess of the line item for education approved by the alders and mayor for 2013-2014.

I now see you have announced on your web page open enrollment for Board of Education employees in the city healthplan for 2014-2015. Without a full reimbursement agreement with the Board of Education, this appears highly illegal and devastating to the integrity of our budgeting and to our taxpayers who would be paying some 7 mills less in property taxes this year but for this payment (assuming 40m plus is the number illegally paid).

Please provide the public and me an immediate disclosure of any payments made on behalf of Board of Education employees out of the city employee city funded health fund. Also I would recommend you provide a legal opinion supporting these payments, or in the alternative call for a criminal investigation of how this happened.

I have reviewed every public document available, as well as all the law on this issue. At present, there is nothing supporting the payments. Perhaps hidden away somewhere there is a binding approved agreement for reimbursement by the Board of Education or for city payment. But as it stands, there is no law, no contract, no budget, and no authority for the controller or anyone else to make these payments.

Very truly yours,

Michael A. Stratton



MAS:fhb

cc: Victor Bolden, Corporate Counsel
Mayor Toni Harp
Garth Harries, Superintendant of Schools VIA FACSIMILE (203) 946-7300