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Office of The Attorney General  
**State of Connecticut**

**TESTIMONY OF  
ATTORNEY GENERAL RICHARD BLUMENTHAL  
BEFORE THE PUBLIC HEALTH COMMITTEE  
FEBRAURY 11, 2009**

I appreciate the opportunity to support Senate Bill 826, An Act Concerning the Licensure of Child Day Care Facilities and Youth Camps.

This legislation facilitates the sharing of child abuse and neglect information between the Department of Children and Families (DCF) and the Department of Public Health (DPH) whenever DCF is investigating abuse or neglect in a youth camp facility licensed by DPH. Currently, DCF abuse and neglect investigation information is appropriately subject to strong confidentiality provisions. These statutes unfortunately prevent the department from providing DPH with crucial information that may be critical for the licensing agency's oversight of such facilities to ensure that children are safe.

This legislation also adds the public and private school exemption from day care licensing to the youth camp law. However, the current day care exemption is unclear as to whether it applies to charter schools. My office issued a legal opinion on March 5, 2008 urging the Department of Public Health to seek corrective legislation. I have attached that opinion for the committee's information. As the opinion noted, charter schools are neither clearly public nor private schools, yet have attributes of a public school because they are chartered and regulated by the state Department of Education and attributes of private schools because they are operated by private entities. While both public and private schools are clearly exempt, charter schools are not.

I urge the committee to add the following language to line 102 after 'education': "or a charter school operating under a charter granted pursuant to section 10-66b".

I urge the committee's favorable consideration of Senate Bill 826 with the suggested amendment.



## MEMORANDUM

To: Devon Conover  
Section Chief  
State of Connecticut  
Department of Public Health  
Regulatory Services Bureau  
Community Base Regulation Section  
410 Capitol Avenue, MS #12DAC  
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From: Darren P. Cunningham  
Assistant Attorney General  
Office of the Attorney General  
Health & Education, 5<sup>th</sup> Floor  
55 Elm Street  
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Date: March 5, 2008

Subject: **Exemption from Child Day Care Licensing – Charter and Magnet Schools**

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You have asked our informal advice as to whether the general application of the public school day care licensing exemptions set forth in Conn. Gen. Stat. § 19a-77 (b)(1) and (2) apply to charter schools and magnet schools.

### I. INTRODUCTION

Connecticut General Statutes § 19a-77(b)(1) and (2) provide an exemption from child day care service licensure when the program at issue is "administered by a public school system" and "administered by a private school." Unfortunately, those terms are undefined in the relevant statutes.

### II. CHARTER SCHOOLS

A Connecticut Charter School is a "public, nonsectarian school which is (A) established under a charter . . . , (B) organized as a nonprofit entity under state law, (C) a public agency for purposes of the Freedom of Information Act . . . and (D) operated independently of any local or regional board of education . . ." Conn. Gen. Stat. § 10-66aa(1). (emphasis added). "Any person, association, corporation, organization or other entity, public or independent institution of

higher education, local or regional board of education or two or more boards of education cooperatively, or regional educational service center may apply . . . to establish a charter school." Conn. Gen. Stat. § 10-66bb(b). Two types of Charter schools exist: (1) a "local charter school" (a converted public school) which is approved by both the State Board of Education as well as the local or regional board of education or, (2) a "State charter school" (a new public school) which is approved by the State Board of Education. Charters are granted to successful applicants following a statutorily mandated process. Conn. Gen. Stat. §§ 10-66aa and 10-66bb. The State Board of Education maintains oversight over Charter Schools, and has the power to renew and revoke charters. Conn. Gen. Stat. §§ 10-66bb(g) and (i). Additionally, the Commissioner of Education has the power to place a Charter School on probation. Conn. Gen. Stat. § 10-66bb(a). Notwithstanding the above, each charter school enjoys a great deal of independence, including the ability to sue, purchase real estate and borrow money. Conn. Gen. Stat. § 10-66ff.

With respect to the child care licensing exemptions, although a charter school is, by definition, a "public" school, charter schools also have attributes of a "private" school. Charter schools may, and often are, run by corporations or associations not commonly associated with local public schools. Indeed, such a governing body is permitted and envisioned by the charter school statutes. See Conn. Gen. Stat. § 10-66bb (b) (allowing a corporation to establish a Charter school). In such instances, although there is general oversight by the Commissioner of Education as well as the State Board of Education, see supra, it cannot be said that all such schools are administered by a public school system, but, instead, some are administered by a private entity.

For those Charter schools applied for and administered by a local or regional board of education or regional educational service center, depending on the control and structure, the licensing exemption would clearly apply.

Charter schools administered by a private entity have elements of both public and private schools, both of which are exempt from the licensing statute. However, such schools do not appear to exactly conform to the child care licensing exemption requirements for either public or private schools. Because there is uncertainty in whether the statutory language providing an exemption for public and private schools applies to these types of charter schools, legislation should be sought to clarify this matter.

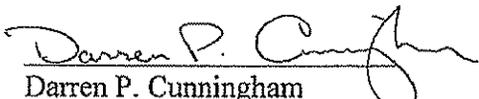
### **III. MAGNET SCHOOLS**

Interdistrict magnet schools are public schools that "shall be operated in conformance with the same laws and regulations applicable to public schools." Conn. Gen. Stat. § 10-264l (emphasis added). Unlike the vast majority of Connecticut charter schools, magnet schools are operated by a local board or boards of education. See Conn. Gen. Stat. § 10-66aa(1)(D). These magnet schools are clearly administered by a public school system within the meaning of the day

Devon Conover, Section Chief  
Department of Public Health  
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care licensure exemption. Just as a traditional public elementary school would not have to apply for a day care license, no license would be required for a magnet school operated by a board or boards of education.

This is the informal opinion of the undersigned and not necessarily not of the Attorney General.

  
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Darren P. Cunningham  
Assistant Attorney General

  
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Thomas J. Ring  
Assistant Attorney General

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