



Testimony of  
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Education Committee  
March 15, 2013

**HB 6624 An Concerning Minor Revisions to the Education Statutes**  
**SB 1096 An Act Concerning Governance of the**  
**State Education Resource Center**  
**SB 1097 An Act Concerning Revisions to the Education Reform Act of 2012**

Good afternoon Senator Stillman, Representative Fleischman and members of the Education Committee. My name is Steve McKeever and I am First Vice President of AFT Connecticut, a diverse state federation union of nearly 29,000 public and private sector employees including state employees, nurses, healthcare workers, teachers and other school personnel. I am here today to testify on several bills.

**SB 1096 An Act Concerning Governance of the State Education Resource Center**

AFT Connecticut and other advocates for clean government worked very hard to enact common sense, transparent state contracting protocols after severe failures were identified in the UConn 2000 and I-84 construction projects and charges of corruption became commonplace in previous administrations. In 2007 the General Assembly enacted sweeping changes to state contracting practices and established the State Contracting Standards Board to make sure actions of the past would never be repeated. That is why AFT Connecticut was disappointed to learn that in the Fall of 2011, in the name of expediency, the State Department of Education bypassed clean contracting requirements and awarded several no-bid contracts to private consultants through its non-profit, the State Education Resource Center (SERC).

The State Auditors of Public Accounts are also concerned about the grey area in which SERC currently operates. In an interim report on SERC issued last month, the Auditors made several recommendations about how SERC should be governed and how its contracting procedures should be transparent. For your convenience, I have attached a copy of that report to my testimony.

SB 1096 is the State Department of Education's response to the controversy surrounding SERC. While it grants quasi-public status to SERC, it does not address

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any of the transparency or due process concerns with regard to its contracting procedures. The audit also recommends that SERC establish an independent board of directors. This bill establishes a board of 7 members, and further explains that 4 members will make a quorum and that a majority of those members will have the authority to set policy. Essentially, this allows for a minority group of 3 of 7 people to set policy and manage SERC. The Government Administration and Elections Committee is considering another bill, HB 5900, that would require SERC, to comply with state procurement and competitive bidding requirements. We ask that you contemplate this bill as continue your work on SB 1096.

At a time when public dollars are scarce and educational needs are so great, it is important to understand where every state education dollar is being spent. In fact, last year's education reform law requires local boards of education, charters schools and regional educational service centers (RESCs) to adopt common charts of accounts so that direct comparisons could be made and potential discrepancies could be easily identified. We believe that SERC and the Department of Education should embrace the spirit of that standard.

**SB 1097 An Act Concerning Revisions to the Education Reform Act of 2012.**

This bill seeks to clarify the provisions of the K-3 Early Literacy Initiative. We support the efforts of the Black and Puerto Rican Caucus to improve reading instruction in our schools and would like to thank the members for working with us to identify how we can better assess teachers' literacy instruction skills. By surveying teachers, rather than testing them, and using the results of that survey to determine the district literacy professional development needs, we will ensure that our students are being taught by teachers who are trained in recent literacy theory and pedagogy. However, we are concerned that candidates seeking a special education endorsement would have to pass a literacy test without being given an opportunity to do the coursework upon which the test is based. We suggest an implementation date of September 1, 2015. This would allow those students currently working toward a special education endorsement an opportunity to obtain the necessary information.

We also have a few concerns with language surrounding the evaluation of teachers. We have been discussing this issue with the Commissioner of Education and the Connecticut Education Association and look forward to working with this Committee to resolve these concerns.

**HB 6624 An Concerning Minor Revisions to the Education Statutes.**

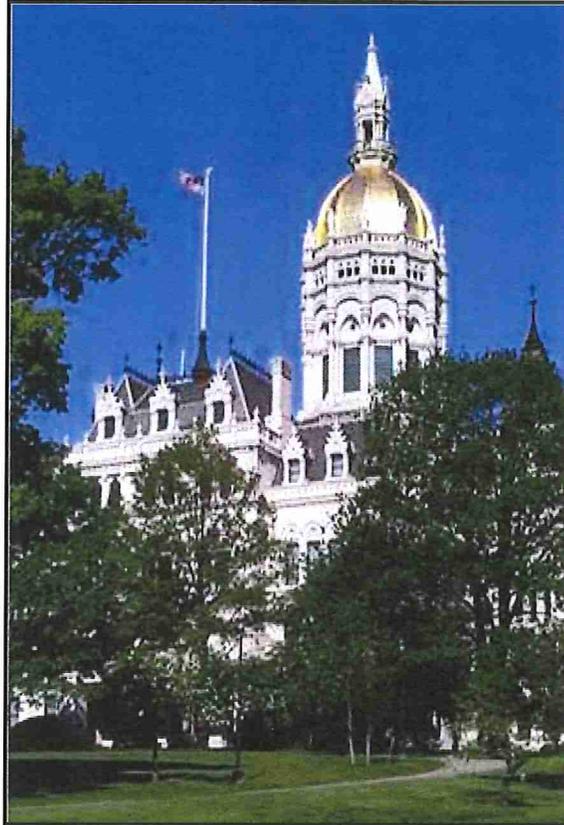
We interpret lines 313 -315 in Section 10 of this bill to say that schools can use mastery based competency and performance standards in lieu of traditional high school credits when determining if students meet the necessary graduation requirements. This raises many questions for us. Here are a few:

- Who would determine the skills and performance standards for each class?
- What does curriculum look like in these courses? Could this lead to watered down content?
- How do we ensure that students from this type of system have the depth of knowledge and skills to avoid remediation in higher education systems?
- How would teachers be trained for this when they are already overwhelmed with learning how to implement the Common Core Standards?
- How would teachers report to parents on the progress of their children?

Currently, performance based report cards are very time consuming, taking upwards of several hours to complete per student. For high school teachers who have hundreds of students, this type of reporting would not be practical.

I thank you for your time and consideration today and will be happy to answer any questions.

# STATE OF CONNECTICUT



***AUDITORS' REPORT  
INTERIM REPORT  
REGARDING THE STATE EDUCATION RESOURCE CENTER (SERC)***

**AUDITORS OF PUBLIC ACCOUNTS**  
JOHN C. GERAGOSIAN ❖ ROBERT M. WARD

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**INTERIM REPORT**  
**REGARDING THE STATE EDUCATION RESOURCE CENTER (SERC)**  
**FEBRUARY 21, 2013**

**INTRODUCTION**

In the 2007-2008 FY audit of the State Department of Education (SDE) released in December of 2010, the office of the Auditors of Public Accounts performed a program evaluation [\[Exhibit 1\]](#) of the State Education Resource Center (SERC). Our office considered the operational relationship between the Department of Education and SERC. This included determining SERC's legal entity status, its responsibilities, and how it was monitored.

In 2012, our office received a whistleblower complaint regarding the awarding of certain contracts by the Department of Education, SERC and Rensselaer Hartford Graduate Center, Inc. (Rensselaer). The whistleblower review and the department's next regularly scheduled audit are still in progress.

Given the interest many members of the Connecticut General Assembly have expressed in the status of SERC, we determined that it was prudent to issue this interim report regarding the status of SERC and to address certain issues with regard to SERC.

**BACKGROUND**

What is now SERC was created in 1969 to address the requirements of the Education of the Handicapped Act. Subsequently, sections 10-4q and 10-76n of the General Statutes were enacted, placing requirements on the State Board of Education and the Department of Education regarding the continued operation of SERC and the activities it may perform. To accomplish this, the department chose to contract with Rensselaer to act as the fiscal agent for SERC [\[Exhibit 2\]](#). As compensation for this service, Rensselaer receives a percentage of the amount expended by SERC.

The statutes and contract suggest that SERC is distinct and separate from Rensselaer. However, the fact that payments for the funding of SERC are made directly to Rensselaer and that the federally required independent audit of those grant funds is performed and reported as a small portion of the Rensselaer audit suggests that SERC is part of Rensselaer. This is further complicated by the fact that SERC refers to itself as a "nonprofit agency" on its website, but no such nonprofit entity was ever formally established. Our 2010 audit concluded with the following recommendation:

"...that the Department continue with its efforts (presently scheduled for completion at the end of fiscal year 2013) to establish the State Education Resource Center (SERC) as a separate legal entity and develop a contractual relationship with that entity with clearly defined deliverables, outcomes, timelines and audit requirements.

In the interim it is recommended that the Department should take the steps necessary to establish deliverables, outcomes and timetables for both SERC and its fiscal agent and should apply those deliverables, outcomes and timelines to the approval process prior to payment.

As a new contract period is imminent, the Department should consider a 'fee for service' payment arrangement based on the deliverables, outcomes and timelines noted, as opposed to the percentage of expenditures methodology currently employed to ensure that the Department receives the services for which it is paying.

Finally, until the Department establishes SERC as a separate and distinct legal entity, the Department should take the steps necessary to ensure that SERC is audited as a separate and distinct entity and in accordance with OMB Circular A-133 rather than included only in the notes for the report of its fiscal agent."

As part of our audit of the 2009-10 fiscal years, our office is reviewing whether the Department of Education complied with our recommendation.

### **DISCUSSION ON THE STATUS OF SERC**

SERC represents itself as a nonprofit organization on its website. However, the statutory language indicates that SERC was created as a state entity. SERC has not acted in a manner that is consistent with state agency requirements for transparency and accountability.

SERC was created in statute in section 10-4q which states "The State Board of Education shall establish a State Education Resource Center to assist the board in the provision of programs and activities that will promote educational equity and excellence. Such activities, to be provided by the State Education Resource Center or a regional educational service center, may include training and continuing education seminars, publication of technical materials, research and evaluation, and other related activities. The center may support programs and activities concerning early childhood education, the federal No Child Left Behind Act, P.L. 107-110, and closing the academic achievement gap between socio-economic subgroups, and other related programs." This language clearly indicates that SERC is a creation of the State Board of Education.

Because of the lack of clarity and specificity of SERC's structure, it has operated in somewhat of a gray area. It lacks the specificity of the statutes governing quasi-public agencies (CGS 1-120 - 1-127). These statutes clearly delineate issues of governance by a board of directors, legal notice, reporting requirements to the Governor, the legislature and other state entities, and auditing requirements (including compliance audits by the Auditors of Public Accounts). SERC also was never formally created as a nonprofit entity. It lacks the legal IRS status, independence, and autonomous board oversight consistent with a nonprofit agency.

SDE, through Rensselaer, is SERC's major customer. Grants of approximately \$12 million dollars are provided by SDE to Rensselaer for use by SERC annually. According to a recent SERC annual report [\[Exhibit 7\]](#), the State of Connecticut provides over 90% of its budget. The arrangement to transmit funding from the Department of Education to Rensselaer, then from Rensselaer to SERC, results in an administrative cost that appears unnecessary and expensive. SERC operates under the direction of an executive director, whose salary is set by the commissioner of the Department of Education. SERC does not have a board of directors, and its budget is set by the executive director. Due to the absence of a board, the budget is not subject to any independent approval process. While most of the employees report to the executive director, some report directly to the commissioner or the commissioner's designee. SERC does not have a tax ID number and uses Rensselaer's tax ID for issuing W-2 forms and for directly obtaining federal grants. Rensselaer's federally required audits include SERC's activities. To date, our 2010 recommendation that SERC have a separate independent audit to comply with the federal single audit requirement has not been addressed.

On at least two recent occasions, SERC entered into an agreement to employ individuals who would report directly to the commissioner of the Department of Education or a designee [Exhibits 3, 4]. In each of these cases, the commissioner instructed SERC to employ specific individuals. In each case, the employment contract (personal service agreement) was between the individual who was employed by SERC and either the State Board of Education or the State Department of Education. On two other occasions, contracts were entered into with private companies to provide various consulting services [Exhibits 5, 6]. Again, the contracts were executed by the State Department of Education, SERC and the private company. The contracts state that the Department of Education selected the vendor and SERC was not responsible for directing or monitoring the vendors' activities. In each of these cases, the state's personal service agreement procedures and its contracting procedures were not followed.

We are not aware of any effort by the State Department of Education to define SERC as a quasi-public agency in statute. However, on numerous occasions, the department has acknowledged that SERC is not a nonprofit entity and has expressed an interest in transforming it into a nonprofit agency in the future. In its application for waiver of competitive bidding in December of 2009, the department stated, "Rensselaer has been the successful bidder for providing fiduciary services to SERC for the past 20 years. SDE would like to continue these services with Rensselaer for an additional three years, during which time SDE can work with the Office of Policy and Management and the legislature to reorganize SERC as a non-stock corporation with tax exempt status under Section 501(c)(3) of the Internal Revenue Code. Currently, SERC does not have any formal legal 'existence' beyond its establishment by the State Board of Education. It is anticipated that by June 30, 2013, SERC will have secured its non-profit IRS status and the need for a fiduciary agent will have been addressed by using their own resources or contracting directly with a vendor." In our audit of the department released in December of 2010, the department responded to an audit finding regarding SERC's status: "We agree with the finding. The Department will continue to pursue its efforts toward securing SERC as a nonprofit organization by the end of FY2013."

We did find two instances in which SDE attempted to change the status of SERC. In 2011, Raised Bill 1039 (LCO 3716) contained a provision requiring the Department of Education to establish SERC as a not-for-profit entity. SDE testified in support of this legislation at the public hearing on February 28, 2011. This provision was not included in the joint favorable substitute voted out of the Education Committee on March 2<sup>nd</sup> or in the final version of SB 1039 that was approved by the General Assembly and signed by the Governor. On January 23, 2013, the State Board of Education voted to approve a change in the status of SERC. Their proposed language does not call for a not-for-profit entity and is not consistent with the provisions of quasi-public entities under section 1-120 et. Seq. of the General Statutes.

We continue to be concerned about the lack of a clear legal status for SERC. The absence of this structure greatly undermines the ability of SERC to be transparent and accountable to the people of Connecticut.

## **RECOMMENDATIONS**

The legislature should act to clarify SERC's legal status. We believe that among the options are:

- (1) Create SERC as a non-stock corporation with the intent that it become a 501(c)(3) nonprofit entity;
- (2) Clarify that SERC is an office within the Department of Education;
- (3) Change SERC to a quasi-public agency consistent with CGS Section 1-120 et. seq.

Under the nonprofit corporation or the quasi-public model, the entity should have an independent board of directors. The quasi-public model should include a requirement for annual compliance audits by the Auditors of Public Accounts and a provision for competitive bidding of contractual services. If a different model is chosen, at a minimum, the legislature should require that SERC establish an independent board of directors, be subject to audit by the Auditors of Public Accounts, report annually to the General Assembly on its activities, and maintain a transparent competitive bidding process.

### **CONCLUSION**

We hope this information is helpful as you deliberate about the future of SERC. As always, the office of the Auditors of Public Accounts is available to assist in any way that we can. Please feel free to contact us with any questions you may have.



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