

RETURN DATE: NOVEMBER 14, 2017	:	SUPERIOR COURT
	:	
THE CONNECTICUT EDUCATION ASSOCIATION, INC., <i>et al.</i> ,	:	JUDICIAL DISTRICT OF HARTFORD
	:	
PLAINTIFFS,	:	
	:	
V.	:	AT HARTFORD
	:	
DANNEL P. MALLOY, <i>et al.</i> ,	:	
	:	
DEFENDANTS.	:	OCTOBER 11, 2017

VERIFIED COMPLAINT

COUNT ONE **(Injunction – Violation of Connecticut General Statutes §§ 10-262h and 10-262i)**

1. The Connecticut Education Association, Inc. (“CEA”) is a duly incorporated non-profit corporation organized and existing under the laws of the State of Connecticut with a business address of 21 Oak Street, Hartford, Connecticut 06106. The CEA exists for the purposes of improving public education, the teaching profession, and representing its membership of numerous professional educators both within and outside of the Plaintiff municipalities.
2. The Plaintiff, Town of Brooklyn (“BROOKLYN”) is a municipal corporation organized and existing under the laws of the State of Connecticut with a business address of 4 Wolf Den Road, Brooklyn, Connecticut 06234.
3. The Plaintiff, Town of Plainfield (“PLAINFIELD”) is a municipal corporation organized and existing under the laws of the State of Connecticut with a business address of 8 Community Avenue, Plainfield, Connecticut 06374.

4. The Plaintiff, City of Torrington (“TORRINGTON”) is a municipal corporation organized and existing under the laws of the State of Connecticut with a business address of 140 Main Street, Torrington, Connecticut 06790.
5. The Plaintiff, Louise Morrison, is a resident of the Town of Brooklyn, and brings this action individually and as Parent and Next Friend of her minor children, Keegan Morrison and Caylee Morrison, public school students in the Brooklyn School District.
6. The Plaintiff, Veronica Gelormino, a resident of Harwinton, CT, is a public school teacher employed by the Torrington Board of Education.
7. The Plaintiff, Kristen Schaetzle, a resident of Danielson, CT, is a public school teacher employed by the Brooklyn Board of Education.
8. The Plaintiff, Michael McCotter, a resident of the Town of New Hartford, is a public school teacher employed by the Torrington Board of Education.
9. The Plaintiff, Janet Piezzo, a resident of Baltic, CT, is a public school teacher employed by the Plainfield Board of Education.
10. The Defendant, Dannel P. Malloy, is Governor of the State of Connecticut and is sued in his official capacity (hereinafter “Malloy”).
11. The Defendant, Kevin Lembo, is State Comptroller for the State of Connecticut and is sued in his official capacity (hereinafter “Lembo”).
12. The Defendant, Denise Nappier, is State Treasurer and is sued in her official capacity (hereinafter “Nappier”).

13. Educational Equalization Grants, commonly referred to as Education Cost Sharing (“ECS”) grants are set forth in Conn. Gen. Stat. §§ 10-262h and 10-262i.
14. Conn. Gen. Stat. § 10-262h sets forth for the fiscal years ending June 30, 2016 and June 30, 2017, the specific ECS grant amounts allocated to each town in Connecticut.
15. Pursuant to Conn. Gen. Stat. § 10-262h the Plaintiff, Brooklyn, for the fiscal year ending June, 30, 2017, received six million, nine hundred seventy-five thousand, three hundred seventy-three dollars (\$6,975,373).
16. Pursuant to Conn. Gen. Stat. § 10-262h the Plaintiff, Plainfield, for the fiscal year ending June, 30, 2017 received fifteen million, three hundred sixty-four thousand, four hundred forty-four dollars (\$15,364,444).
17. Pursuant to Conn. Gen. Stat. § 10-262h the Plaintiff, Torrington, for the fiscal year ending June, 30, 2017 received twenty four million, four hundred eighty-two thousand, eight hundred sixty-five dollars (\$24,482,865).
18. As of the filing of this Verified Complaint, the State of Connecticut has been operating without a budget since July 1, 2017.
19. Conn. Gen. Stat. § 10-262i states in pertinent part, the following:
 - a) For the fiscal year ending June 30, 1990, and for each fiscal year thereafter, each town shall be paid a grant equal to the amount the town is entitled to receive under the provisions of section 10-262h.
20. Pursuant to Conn. Gen. Stat. § 10-262i, in the absence of a budget and an amendment to Conn. Gen. Stat. § 10-262h providing for fiscal year 2018 ECS grant amounts, the

fiscal year 2017 ECS grant amounts enumerated in Conn. Gen. Stat. § 10-262h must be paid to the towns.

21. On June 30, 2017, Malloy signed Executive Order No. 58. Paragraph 4 of said executive order states, “[t]hat all expenditures for the period from July 1, 2017 through the date of approval of an appropriations act for the fiscal year commencing July 1, 2017, shall be authorized only upon the Governor’s approval of a request by the Office of Policy and Management (“OPM”) for periodic spending authorizations in accordance with this executive order.”
22. A Resource Allocation Plan for the Fiscal Year 2018, dated June 26, 2017 was issued in support of Executive Order No. 58.
23. The Allocation Plan made dramatic cuts to ECS grants in excess of five hundred million dollars (\$500,000,000), which took effect on October 1, 2017.
24. On August 18, 2017, Malloy announced revisions to the Allocation Plan, which further reduced the total amount of ECS grants and reallocated the distribution of the ECS grants.
25. Pursuant to the Revised Resource Allocation plan, Brooklyn’s ECS grant for the fiscal year 2018 is four million, one hundred eighty-five thousand, two hundred twenty-four dollars (\$4,185,224), which represents a reduction in ECS grant funds from fiscal year 2017 in the amount of two million, seven hundred ninety thousand, one hundred forty-nine dollars (\$2,790,149), or approximately thirty-nine percent (39%).

26. Pursuant to the Revised Resource Allocation plan, Plainfield's ECS grant for the fiscal year 2018 is nine million, two hundred eighteen thousand, six hundred sixty-six dollars (\$9,218,666), which represents a reduction in ECS grant funds from fiscal year 2017 of six million, one hundred forty-five thousand, seven hundred seventy-eight dollars (\$6,145,778), or approximately forty percent (40%).
27. Pursuant to the Revised Resource Allocation plan, Torrington's ECS grant for the fiscal year 2018 is four million, eight hundred ninety-six thousand, five hundred seventy-three dollars (\$4,896,573), which represents a reduction in ECS grant funds from fiscal year 2017 of nineteen million, five hundred eighty-six thousand, two hundred ninety-two dollars (\$19,586,292), or approximately eighty percent (80%).
28. On October 2, 2017, the Plaintiff municipalities received their first installment of ECS funds, which comprised approximately twenty-five percent (25%) of the total grant set forth in Malloy's Revised Resource Allocation Plan. For example, Torrington received its first ECS check in the amount of one million, two hundred thousand dollars (\$1,200,000) a reduction from the approximate seven million dollars (\$7,000,000) received in the first installment of the 2017 fiscal year amount.
29. The Defendants' actions constitute a violation of Conn. Gen. Stat. §§ 10-262h and 10-262i and are therefore, unlawful.
30. The result of the Defendants' cuts will be devastating to the public schools of Connecticut, which will directly impact students, parents, teachers and all residents of the Plaintiffs' respective communities.

31. The Plaintiff municipalities and, in fact, all Connecticut municipalities and boards of education will be forced to make drastic additional cuts to their school budgets. That, in turn, will result in the loss of critical educational programs and resources, and significant teacher layoffs throughout the current school year. These actions will cause lost learning opportunities that cannot be recouped and massive disruption to the entire educational system resulting in irreparable harm.

32. If an injunction does not issue to prevent the Defendants from withholding state money that is statutorily due the Plaintiffs, the Plaintiffs will suffer additional irreparable harm, in that: (a) the municipalities will be unable to fulfill their statutory duty to provide an adequate education; (b) the students will be deprived of learning opportunities mandated by law; (c) the parents will suffer irreparable harm in that their children will not be provided with an adequate education; and (d) the teachers will suffer irreparable harm due to the loss of teaching positions and consequently the inability to pursue their chosen profession; and to the extent that they do not lose their teaching positions, they will further suffer irreparable harm by virtue of having to teach under circumstances where the resources to be utilized by them will be dramatically reduced.

33. The Plaintiffs have no adequate remedy at law.

34. Conn. Gen. Stat. § 52-471(a) provides: Any judge of any court of equitable jurisdiction, may, on motion, grant and enforce a writ of injunction, according to the course of proceedings in equity, in any action for equitable relief when the relief is

properly demandable, returnable to any court, when the court is not in session. Upon granting of the writ, the writ shall be of force until the sitting of the court and its further order thereon unless sooner dissolved.

35. Conn. Gen. Stat. § 52-473(a) provides: An injunction may be granted immediately, if the circumstances demand it, or the court or judge may cause immediate notice of the application to be given to the adverse party, that he may show cause why the injunction should not be granted.

36. The Plaintiffs hereby apply for an order without bond from this Court pursuant to Conn Gen. Stat. § 52-472, enjoining the Defendants from withholding state money statutorily due to the Plaintiffs.

COUNT TWO **(Injunction – Actions In Excess Of Authority)**

1. Paragraphs 1 through 28 of Count One are hereby incorporated and made Paragraphs 1 through 28 of this Count Two.
29. In the absence of an updated budget for the State of Connecticut, the Defendants had no authority to reduce ECS grant funds and/or to reallocate the same, absent any legislative action. The Defendants' actions, in particular the reduction in ECS grant funds in excess of five hundred million dollars (\$500,000,00) and the reallocation of said funds, were arbitrary and capricious and in excess of statutory authority.
30. The Defendants' actions are in excess of their statutory authority in that they had no authority to exercise what is a legislative function.

31. The Defendants' actions are also a violation of article eighth § 1 of the state Constitution which mandates that the State provide an adequate education to public school students.
32. The result of the Defendants' cuts will be devastating to the public schools of Connecticut, which will directly impact students, parents, teachers and all residents of the Plaintiffs' respective communities.
33. The Plaintiff municipalities and, in fact, all Connecticut towns and boards of education will be forced to make drastic additional cuts to their school budgets. That, in turn, will result in the loss of critical educational programs and resources, and significant teacher layoffs throughout the current school year. These actions will cause lost learning opportunities that cannot be recouped and massive disruption to the entire educational system resulting in irreparable harm.
34. If an injunction does not issue to prevent the Defendants from withholding state money that is statutorily due the Plaintiffs, the Plaintiffs will suffer additional irreparable harm, in that: (a) the municipalities will be unable to fulfill their statutory duty to provide an adequate education; (b) the students will be deprived of learning opportunities mandated by law; (c) the parents will suffer irreparable harm in that their children will not be provided with an adequate education; and (d) the teachers will suffer irreparable harm due to the loss of teaching positions and consequently the inability to pursue their chosen profession; and to the extent that they do not lose their teaching positions, they will further suffer irreparable harm by virtue of having

to teach under circumstances where the resources to be utilized by them will be dramatically reduced.

35. There is no adequate remedy at law.

36. Conn. Gen. Stat. § 52-471(a) provides: Any judge of any court of equitable jurisdiction, may, on motion, grant and enforce a writ of injunction, according to the course of proceedings in equity, in any action for equitable relief when the relief is properly demandable, returnable to any court, when the court is not in session. Upon granting of the writ, the writ shall be of force until the sitting of the court and its further order thereon unless sooner dissolved.

37. Conn. Gen. Stat. § 52-473(a) provides: An injunction may be granted immediately, if the circumstances demand it, or the court or judge may cause immediate notice of the application to be given to the adverse party, that he may show cause why the injunction should not be granted.

38. The Plaintiffs, hereby apply for an order without bond from this Court pursuant to Conn Gen. Stat. § 52-472, enjoining the Defendants from withholding the money statutorily due to the Plaintiffs.

COUNT THREE (Mandamus – State of Connecticut Comptroller)

1. Paragraphs 1 through 35 of Count Two are hereby incorporated and made Paragraphs 1- 35 of this Count Three.

36. The Defendant, Kevin Lembo, is and at all times mentioned herein was the Comptroller of the State of Connecticut.

37. Among the powers and duties of a Comptroller, pursuant to Conn. Gen. Stat. § 3-112, is to adjust and settle all demands against the state not first adjusted and settled by the General Assembly, and give orders on the Treasurer for the balance found and allowed.

38. On or about October 2, 2017, the Comptroller commenced issuing payments to the various municipalities in accordance with Malloy's Executive Order No. 58.

39. Pursuant to Conn. Gen. Stat. § 3-112, Lembo has the obligation to pay the amounts owed to the Plaintiff municipalities in accordance with the provisions of Conn. Gen. Stat. § 10-262i and has, thus far, failed to do so.

COUNT FOUR **(Mandamus – State of Connecticut Treasurer)**

1. Paragraphs 1 through 35 of Count Two are hereby incorporated and made Paragraphs 1- 35 of this Count Four.

36. The Defendant, Denise Nappier, is and at all times mentioned herein was the Treasurer of the State of Connecticut.

37. Among the powers and duties of a Treasurer, is to receive and execute orders from the Comptroller to fund the demands against the state adjusted and settled by the Comptroller.

38. On or about October 2, 2017, the Treasurer received and executed orders from the Comptroller to fund payments to the municipalities in accordance with Malloy's Executive Order No. 58.

39. The Treasurer has the obligation to fund demands against the state in accordance with orders to be issued by the Comptroller in accordance with Count Three hereof.

COUNT FIVE **(Declaratory Judgment – Validity of Executive Order regarding ECS Funds)**

1. Paragraphs 1 through 34 of Count Two are hereby incorporated and made Paragraphs 1 through 34 of this Count Five.

35. The Plaintiffs have a statutory right to the ECS grants.

36. There is an actual and bona fide dispute between the Plaintiffs and the Defendants, which requires adjudication.

37. There is substantial uncertainty of the authority of the Defendants, which requires adjudication.

38. The Plaintiffs seek a declaratory judgment that Malloy exceeded his powers in promulgating Executive Order No. 58, as amended, and that said order as it pertains to the ECS grants is void and of no effect.

WHEREFORE, The Plaintiffs Pray For The Following Relief:

As To Counts One and Two:

1. A temporary and permanent injunction prohibiting and restraining the Defendants from reducing and reallocating the fiscal year 2017 ECS grant amounts enumerated in the statute when paying the grant amounts due for fiscal year 2018; and
2. Such other relief as the ends of justice and equity require.

As to Counts Three and Four:

1. An order of Mandamus pursuant to Conn. Gen. Stat. § 52-485, *et seq.*, directing Lembo, in his official capacity as Comptroller, to perform his ministerial duty to pay the Plaintiff municipalities the amounts set forth in Conn. Gen. Stat. § 10-262h and mandated by Conn. Gen. Stat. § 10-262i;
2. An order of Mandamus pursuant to Conn. Gen. Stat. § 52-485, *et seq.*, directing Napier, in her official capacity as Treasurer, to perform her ministerial duty to fund demands against the state in the amounts set forth in Conn. Gen. Stat. § 10-262h and mandated by Conn. Gen. Stats. § 10-262i as follows:
 - A. To the City of Torrington the amount of \$24,482,865;
 - B. To the Town of Plainfield the amount of \$15,364,444;
 - C. To the Town of Brooklyn the amount of \$6,975,373;
3. If the Court grants the requests for relief above, then for purposes of judicial consistency, efficiency and economy, an order of Mandamus pursuant to Conn. Gen. Stat. § 52-485, *et seq.*, as to the Comptroller and Treasurer to pay and fund, respectively, demands against the state in the amounts set forth in Conn. Gen. Stat. § 10-262h and mandated by Conn. Gen. Stat. § 10-262i, for all other recipients named in Conn. Gen. Stat. § 10-262h;
4. Such other relief as the Court may deem appropriate; and
5. Costs.

As to Count Five:

1. A declaration that Malloy does not have legal authority through an Executive Order to reduce and/or reallocate the fiscal year 2017 ECS grant amounts enumerated in the statute;
2. A declaration that the fiscal year 2017 ECS grant amounts be paid as provided in the statute to satisfy the ECS grant amounts for the fiscal year 2018;
3. Cost, fees and attorneys' fees; and
4. Such other relief as the ends of justice and equity require.

PLAINTIFFS,

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STATEMENT OF AMOUNT IN DEMAND

The Plaintiffs claim equitable relief, specifically, a temporary and permanent injunction, writ of mandamus and a declaratory judgment.

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