



Angélica Infante-Green
Commissioner

State of Rhode Island
DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
Shepard Building
255 Westminster Street
Providence, Rhode Island 02903-3400

June 18, 2021

Dr. Cheryl McWilliams
Superintendent of Schools
Pawtucket School Department
286 Main Street
Pawtucket, RI 02862

Dear Dr. McWilliams,

Please allow this letter to serve as Commissioner Angélica Infante-Green's ("Commissioner") response to the proposed Shea Renovation Plan ("Plan") detailed in your June 1, 2021 letter. As you know, under the Plan, students at Charles E. Shea High School ("Shea") and Tolman High School ("Tolman") would share an educational learning facility, i.e. Tolman, while the Shea facility is under construction. In order to accommodate both Tolman and Shea students, the Plan provides for a weekly alternating in-person and virtual learning model. As further discussed below, the Plan is in violation of both Rhode Island statutory law and the Basic Education Program ("BEP").

Pursuant to R.I. Gen. Laws § 16-2-2(a)(1), except as otherwise specifically provided for, LEAs must provide students with in-person learning for at least one hundred eighty (180) days annually or the equivalent thereof. Given that the Plan only provides Tolman and Shea students with in-person learning for approximately 90 days, or half of the requisite time, the Plan fails to comply with this statute.

One exception to the 180-day requirement is that a school district may:

[S]ubmit a detailed plan, at any time, to the commissioner of elementary and secondary education that would allow the schools to conduct instruction through virtual education when the schools have been closed due to inclement weather or other emergency. The plan for virtual education would be subject to, and require approval by, the council on elementary and secondary education in order to count as a school day.

R.I. Gen. Laws § 16-2-2(c). While there is no question that Shea would, in fact, be closed so as to prevent in-person learning during the construction project, there is no indication that closing Shea constitutes an "emergency" warranting virtual learning for all Shea and Tolman students. *See id.* Rather, it seems more likely that the restrictions to full-time in-person learning proffered in your June 1, 2021 letter can be further explored, planned for, and prevented to allow for in-person learning as opposed to an emergency situation that cannot not be planned for or prevented, such as inclement weather.

Additionally, the Council of Elementary and Secondary Education (“the Council”) must approve the Plan in order for any virtual learning days to count as school days and towards the 180-day requirement. *See id.* The Plan has yet to receive this requisite approval such that the proposed virtual learning days would not count towards the 180-day requirement. Accordingly, the Plan is in violation of Rhode Island statutory law for failing to provide students with the requisite 180 days of in-person learning. *See* R.I. Gen. Laws § 16-2-2(a)(1).

Moreover, the BEP provides that “[t]he primary responsibility of the LEA is to create and sustain high quality learning environments that meet the standards set forth in the BEP.” 200-RICR-20-10-1.1.4(A)(1). Section 1.3.4 specifically requires LEAs to provide safe and healthy learning environments, including “a physical environment that contributes to the successful conduct of the program that has been designed to meet the educational needs of students.” 200-RICR-20-10-1.3.4(B). Indeed, “LEA facilities, consisting of the site, building, equipment, and utilities, are major factors in the functioning of the educational program.” 200-RICR-20-10-1.4.2(E)(1). In order to meet this requirement, LEAs are required to provide facilities that, in part, have “adequate space with respect to student enrollment, the instructional program, and necessary administrative and supporting services.” 200-RICR-20-10-1.3.4(C), 1.4.2(E)(2).

In direct violation of the BEP, the Plan fails to provide a “high quality” physical learning environment. *See* 200-RICR-20-10-1.1.4(A)(1). Even though the Plan does provide a physical environment for all students, i.e. Tolman, this facility is only available to Shea and Tolman students part time under the proposed alternating in-person and virtual learning schedule. Further, the facility does not have “adequate space with respect to student enrollment” during the Shea construction. If the facility did have “adequate space” as required by the BEP, there would be no need to place students on an alternating in-person and virtual learning schedule and therefore would alleviate the need for the Plan altogether. As such, under these circumstances, the Plan fails to provide for a physical learning environment and is not acceptable under the BEP.

Your June 1, 2021 letter and supporting documents make reference to the Village Green Virtual School (“Village Green”). It is important to note that Village Green is readily distinguishable from the circumstances presented under the Plan. In compliance with both Rhode Island statutory and regulatory law, Village Green submitted a proposed virtual learning charter to the Commissioner that was later approved by the Council. *See* 200-RICR-20-05-2.2; *see also* R.I. Gen. Laws § 16-77-1, *et seq.* Neither Shea nor Tolman has submitted a proposed virtual learning charter nor has either school been approved for such a charter. Even if the Plan constituted a proposed virtual learning charter, the Commissioner does not have the requisite authority to approve the charter, as such authority is exclusively held by the Council. *See* 200-RICR-20-05-2.2.

For the foregoing reasons, the Plan fails to comply with Rhode Island statutory law and the BEP. As such, please continue working with the School Building Authority to effectuate a plan that will meet the academic requirements for a swing space during the Shea construction.

If you have any questions or need any additional information, please let me know.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kelvin Roldán".

Dr. Kelvin Roldán
Deputy Commissioner for System
Transformation

Cc: Dr. Joseph DaSilva, School Building Authority
Victor Capellán, Senior Advisor to the Commissioner
Ana Riley, Deputy Commissioner for Instructional Programs
Don Grebien, Mayor, City of Pawtucket
Gerard Charbonneau, School Committee Chair
William J. Conley, Legal Counsel
Melissa Devine, CFO
Derek Osterman, Director, Colliers
Holly Demers, Associate Director, Colliers