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City of Dover, New Hampshire
OFFICE OF THE CITY ATTORNEY

June 9, 2009

All Councilors
Dover City Council
City of Dover
288 Central Avenue
Dover, New Hampshire 03820

Re: City Council review of the School budget

CONFIDENTIAL SUBJECT TO THE ATTORNEY CLIENT PRIVILEGE

Dear Honorable Mayor, Deputy Mayor and Councilors:

I have received the same question from Councilors Karen Weston and Rick Callaghan.

QUESTION: Is the City Council permitted to review and amend total revenues of the School Department when adopting the annual budget?

ANSWER. Yes.

Recently, the Dover City Council adopted the Fiscal Year 2010 annual budget. During the process, the City Council reduced by \$200,000 the portion of the annual budget stating the estimated total revenues of the School Department. Total revenues appear on page 66 of the budget document.

The stated reason for the motion to reduce the estimated revenues was historical data indicating a trend reflecting a shortfall in the revenues.

The Commissioner of the Department of Revenue Administration sets the tax rate for the City of Dover. RSA 21-J:35. The Commissioner examines the reports supplied by the City of Dover. Among the determinations made by the Commissioner is a determination that estimates of revenues are accurate. RSA 21-J:35(II)(c).

City ordinance requires the School Board to submit **“recommended budget amounts for revenue and expenditures for the next fiscal year of the various functions and funds of the School Department.”** *Dover Ordinances 9-1.*

In order to comply with requirements of the Department of Revenue Administrative for accuracy of estimates of revenues used for setting the tax rate, the Dover City Council is permitted to amend total revenues and total expenditures of the School Board. Since the city ordinance requires submission to the City Council of both recommended revenues and recommended expenditures, the City Council reviews both revenues and expenditures.

The Dover School Board has independent aspects to its functions. It is the manager of the public schools within the limits of the appropriation made by the City Council. The School Board is entitled to all the powers of a school district conferred by law. However, City of Dover is a single municipal corporation with powers for municipal and school purposes. The City Council adopts an annual budget for the municipal corporation as a whole, including education. See *Opinion, City of Manchester School District and School Administrative Unit #37 v. City of Manchester*, (Hillsborough County Superior Court, #98-E-458) dated 5/26/98; *City of Manchester School District v. City of Manchester*, 150 N.H. 664 (2004); *Session Laws, 1929, New Hampshire General Court "An Act to Revise and Codify the Charter of Dover; Dover Charter C1-1 and C 4-1; Rochester Educ. Assoc. v. City of Rochester*, 116 N.H. 402 (1976); *Laconia Bd. of Educ. V. Laconia*, 111 N.H. 389 (1971).

Sincerely,

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