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CITY OF MANCHESTER
Office of the City Solicitor

May 28, 2025

The Honorable Joseph Kelly Levasseur, Chairman
The Board of Mayor and Aldermen
City of Manchester
City Hall
One City Hall Plaza
Manchester, NH 03101

Dear Chairman Levasseur:

I am writing in the context of the consideration by the Board of Mayor and Aldermen (BMA) of amendments to the City Charter establishing the authority of the BMA over the budget of the Manchester School District (SAU 37). It is the opinion of this office that the Mayor and the Board of Mayor and Aldermen possess significant authority in this regard under both the current Charter and applicable state law.

The present Charter was adopted effective July 1, 1997.¹ This Charter establishes the Mayor as the City's chief executive officer, Charter 2.08 (a), RSA 45:7, and vests "[t]he administration of the fiscal affairs, municipal resources and other affairs of the city...in a principal officer to be called the mayor and a board of directors to be called the board of aldermen who as a body, acting together, shall be known as the board of mayor and aldermen." Charter 2.01; *see also*, RSA 46:7.

Administrative powers over the City reside in the Mayor: "The mayor shall have the power to supervise the administrative affairs of the city. The mayor shall carry out the policies enacted by the board of aldermen and perform other duties as are consistent with those of a chief executive." Charter, 2.08 (b). The Mayor has power to veto any action by the Board of Aldermen. Charter, 2.09; *see also*,

¹ The 1997 Charter was immediately preceded by the 1983 Charter, effective January 1, 1983.

RSA 45:9. The Mayor's executive powers include his authority as budget officer: "The mayor shall ***exercise administrative control over the expenditure of all appropriations; establish a budget format and the procedures for the adoption of the budget***; review all departmental budgetary requests; and make recommendations to the board of aldermen regarding financial policies, appropriation resolutions and revenues." Charter 2.08 (h) (emphasis added).

The Mayor has extensive authority over the form, procedure and adoption of the City's annual budget:

The mayor shall establish the form and organization of procedures for preparation and adoption of the annual budget, the capital improvement budget, and other budget instruments and plans for future fiscal periods as the mayor deems appropriate and which shall conform to all city ordinances concerning budgets and fiscal matters. Such procedures shall require that all budgets include all proposed expenditures according to general objects of expenditure and the proposed use and all anticipated revenue.

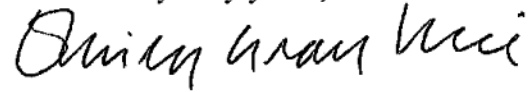
Charter, 6.03 (a). Since, as a matter of law, the School District budget constitutes a line item in the City's annual budget, Charter, 6.04 (c), the reference to "annual budget" in Charter 6.03 (a) includes the School District budget.

The School District budget is clearly subject to the approval of the BMA. Charter, 6.06. That budget must be submitted "in accordance with the budget schedule established by the mayor." *Id.* Once received by the BMA, the BMA is not required to accept the budget submitted by the School Committee: "The board of mayor and aldermen shall accept such budget as submitted, or reject it and return it to the school committee along with the explanation for rejection and the maximum dollar amount which the board of mayor and aldermen will approve." If the BMA rejects the budget as submitted, the School Committee is required to "submit a revised budget *which shall not exceed* the maximum dollar amount established by the board of mayor and aldermen." Charter, 6.06 (emphasis added). The Charter contains no language which would, after rejection by the BMA, permit the submission of School Department budget which exceeds the maximum amount established by the BMA.

It does not appear that seeking to amend the Charter to make the School District a department of City government would be an effective means of attempting to add to the City's significant existing authority over the School District budget. Any such amendment would be subject both to the numerous controlling state statutes and administrative rules governing the authority and responsibilities of local school boards, school districts and superintendents, and to the fact that the Manchester School District and the City of Manchester are separate municipal corporations.

I hope that the above information is of assistance to the Board of Mayor and Aldermen. As always, we are ready and available to provide further advice and assistance at any time.

Very truly yours,

A handwritten signature in black ink that reads "Emily Gray Rice". The signature is written in a cursive, flowing style.

Emily Gray Rice, Esq.
City Solicitor