

CONNECTICUT STATE BOARD OF EDUCATION

IN RE: : **PETITION FOR**
: **DECLARATORY RULING**
:
PETITION OF THE : **CASE NO. _____**
THOMASTON BOARD OF EDUCATION :
FOR A DECLARATORY RULING : **APRIL 26, 2018**

PETITION FOR DECLARATORY RULING

I. Introduction

Pursuant to Connecticut General Statutes § 4-176, and Regulations of Connecticut State Agencies § 10-4-21, Petitioner, the Thomaston Board of Education (“TBOE”), a local board of education established pursuant to Title 10 of the Connecticut General Statutes having a business address at 185 Branch Road, Thomaston, Connecticut 06787, hereby submits this petition for declaratory ruling to the Connecticut State Board of Education (“SBE”). This petition arises from a dispute between the TBOE and the Regional School District No. 6 Board of Education (“R6BOE”), a regional board of education having a business address at 98 Wamogo Road, Litchfield, Connecticut 06759. The R6BOE operates Wamogo Regional High School (“WRHS”), within which it maintains an agricultural science and technology education center (“ASTECS”), the Agricultural Science & Technology Center at WRHS (the “Wamogo Center”). The TBOE petitions for a declaratory ruling regarding the interpretation and application of Connecticut General Statutes §§ 10-64, 10-65, and 10-97 related to the provision of agricultural science and technology education, and specifically concerning the following issues:

1. Can a local or regional board of education that does not maintain an ASTEC limit the number of opportunities available for its students to attend an ASTEC to the minimum number of opportunities it is required to provide pursuant to § 10-65(b)?

2. Can a local or regional board of education maintaining an ASTEC (hereinafter generally referred to as an “ASTEC Board”) unilaterally elect to accept and enroll students of a local or regional board of education that does not maintain an ASTEC (hereinafter generally referred to as a “Sending Board”) in a number that exceeds the number of opportunities for students the Sending Board has limited the ASTEC Board to accepting?
3. Are the rulings on issues 1 and 2 impacted by whether an ASTEC Board accepts and enrolls some or all of the students of a Sending Board on a tuition-basis versus non-tuition-basis? How does the tuition-paying status impact the manner in which the three-year averages under § 10-65(b) are calculated? Specifically, if an ASTEC Board accepts and permits to attend, on a tuition-free basis, a Sending Board’s student, must that student be counted in the number of students attending the ASTEC as part of the calculation of the minimum number of opportunities the board of education is required to provide students in future years—on a tuition-basis—pursuant to § 10-65(b)? If so, (a) can the Sending Board limit the number of its students that attend an ASTEC on a tuition-free basis; and (b) can the ASTEC Board charge tuition for such student’s attendance in future years?
4. As applicable to the 2017-2018 school year, did the TBOE have the authority under Connecticut General Statutes § 10-220, § 10-65, or any other provision of the Connecticut General Statutes, to limit the number of TBOE students the R6BOE was permitted to accept to attend the Wamogo Center to the minimum number required by § 10-65(b)?
5. As applicable to the 2017-2018 school year, did the R6BOE exceed its authority under § 10-65 or any other provision of the Connecticut General Statutes to accept TBOE students to attend the Wamogo Center when it accepted additional TBOE students in excess of the number that the TBOE had authorized the R6BOE to accept?
6. How should the TBOE calculate the number of opportunities it is required to provide students to attend an ASTEC during the 2018-2019 school year?
7. If a Sending Board enters into a written agreement with an ASTEC Board regarding the provision of opportunities for its students to attend an ASTEC as permitted by § 10-65(b), can the parties decide in such agreement that in future years, whether governed by the agreement or after the agreement has expired, numbers that are less than the actual numbers of students that attended the ASTEC in years governed by the agreement will be used in calculating the number of opportunities for students to attend the ASTEC that the Sending Board is required to provide pursuant to § 10-65(b)? Or must the actual number of students that attended the ASTEC be used? For example, is it permissible and enforceable under § 10-65(b) for the parties to agree to the following: “For the current year, Sending Board A agrees to send to ASTEC B: 8 students that

will be counted as ninth graders, 4 students that will be counted as students in grades 10, 11, or 12, and an additional 3 students that will not be counted towards Sending Board A's three-year average number of required students in future years under § 10-65(b).”?

For reasons arising from the factual circumstances detailed below, the TBOE further requests that the SBE take into consideration the time-sensitive nature of many of the issues identified above, the concerns underlying them, and the current and potential future impact on the educational opportunities available to the TBOE's students, and judiciously consider and rule upon this petition.

II. Relevant Statutory Language

Connecticut General Statutes § 10-64(d) provides:

Any local or regional board of education which does not furnish agricultural science and technology education approved by the State Board of Education shall designate a school or schools having such a course approved by the State Board of Education as the school which any person may attend who has completed an elementary school course through the eighth grade. The board of education shall pay the tuition and reasonable and necessary cost of transportation of any person under twenty-one years of age who is not a graduate of a high school or technical high school or an agricultural science and technology education center and who attends the designated school, provided transportation services may be suspended in accordance with the provisions of section 10-233c. Each such board's reimbursement percentage pursuant to section 10-266m for expenditures in excess of eight hundred dollars per pupil incurred in the fiscal year beginning July 1, 2004, and in each fiscal year thereafter, shall be increased by an additional twenty percentage points.

(Section 10-64 **attached as Exhibit A.**) Connecticut General Statutes § 10-97(b) contains nearly identical language to § 10-64(d), providing:

Any local or regional board of education which does not furnish agricultural science and technology education approved by the State Board of Education shall designate a school or schools having such a course approved by the State Board of Education as the school which any person may attend who has completed an elementary school course through the eighth grade. The board of education shall pay the tuition and reasonable

and necessary cost of transportation of any person under twenty-one years of age who is not a graduate of a high school or technical high school and who attends the designated school, provided transportation services may be suspended in accordance with the provisions of section 10-233c. Each such board's reimbursement percentage pursuant to section 10-266m for expenditures in excess of eight hundred dollars per pupil incurred in the fiscal year beginning July 1, 1987, and in each fiscal year thereafter, shall be increased by an additional twenty percentage points.

(Section 10-97 **attached as Exhibit B.**)

Conn. Gen. Stat. § 10-65(b) provides:

Each local or regional board of education not maintaining an agricultural science and technology education center shall provide opportunities for its students to enroll in one or more such centers in a number that is at least equal to the number specified in any written agreement with each such center or centers, or in the absence of such an agreement, a number that is at least equal to the average number of its students that the board of education enrolled in each such center or centers during the previous three school years, provided, in addition to such number, each such board of education shall provide opportunities for its students to enroll in the ninth grade in a number that is at least equal to the number specified in any written agreement with each such center or centers, or in the absence of such an agreement, a number that is at least equal to the average number of students that the board of education enrolled in the ninth grade in each such center or centers during the previous three school years. If a local or regional board of education provided opportunities for students to enroll in more than one center for the school year commencing July 1, 2007, such board of education shall continue to provide such opportunities to students in accordance with this subsection. The board of education operating an agricultural science and technology education center may charge, subject to the provisions of section 10-65b, tuition for a school year in an amount not to exceed fifty-nine and two-tenths per cent of the foundation level pursuant to subdivision (9) of section 10-262f, per student for the fiscal year in which the tuition is paid, except that such board may charge tuition for (1) students enrolled under shared-time arrangements on a pro rata basis, and (2) special education students which shall not exceed the actual costs of educating such students minus the amounts received pursuant to subdivision (2) of subsection (a) of this section and subsection (c) of this section. Any tuition paid by such board for special education students in excess of the tuition paid for non-special-education students shall be reimbursed pursuant to section 10-76g.

(Section 10-65 **attached as Exhibit C.**)

III. Factual Background

Pursuant to Conn. Gen. Stat. § 10-240, the TBOE is charged with maintaining control of the public schools within the Thomaston public school district (“Thomaston Public Schools” or “TPS”). The TBOE does not maintain and has not maintained an ASTEC and does not furnish and has not furnished agricultural science and technology education approved by the SBE to students within its jurisdiction (hereinafter generally referred to as “Thomaston students”), and therefore, for as long as is relevant to this petition, at least the last five (5) school years, the TBOE has designated the Wamogo Center as the school which Thomaston students may attend for agricultural science and technology education in accord with Conn. Gen. Stat. §§ 10-64(d) and 10-97(b). The TBOE has provided opportunities for Thomaston students to attend an ASTEC in accord with § 10-65(b) by providing opportunities for its students to attend the Wamogo Center. The TBOE does not have and has not had a written agreement with the Wamogo Center or the R6BOE as is permitted by § 10-65(b). Instead, the TBOE has met its obligations under § 10-65(b) to provide opportunities to Thomaston students to attend an ASTEC in the statutorily-required minimum numbers through the practice of permitting the Wamogo Center to accept a certain number of eighth grade Thomaston students each year. Thus, the number of opportunities available for students to attend the Wamogo Center as ninth graders is annually determined during the preceding school year. At least in recent years, that number has been and is equal to the minimum number of opportunities the TBOE is required to provide under § 10-65(b) according to the calculation method set forth thereunder, i.e., the three-year average number of ninth-grade Thomaston students attending the Wamogo Center.

During the 2016-2017 school year, the TBOE authorized the Wamogo Center to accept up to five (5) then-current eighth grade Thomaston students (i.e., soon-to-be rising ninth grade students) to attend the Wamogo Center during the 2017-2018 school year as part of the ninth grade class. On January 20, 2017, Heather Rubbo, administrative assistant at the Wamogo Center, communicated to Steven Malo, guidance counselor at Thomaston High School, by email (the “January Email” **attached as Exhibit D**¹) that the Wamogo Center had accepted five eighth grade Thomaston students to attend the Wamogo Center during the 2017–2018 school year, and placed four additional Thomaston students on a waiting list. Rubbo further acknowledged that the Wamogo Center was restricted by the TBOE to accepting five eighth grade students in stating: “While we would have gladly accepted more students from Thomaston, we are restricted by your town on the number we are allowed to accept. We have been talking with the business manager to see if there is any possibility of accepting more this year. If we get the go ahead to accept more students, we will contact students on the wait list.” See Exhibit D.

A letter dated March 21, 2017, sent by Charles Rowland, director of the Wamogo Center, to Francine Coss, Superintendent of Schools, Thomaston Public Schools (the “March Letter” **attached as Exhibit E**), confirmed the names of the five students (Student A, Student B, Student C, Student D, and Student E)², all eighth grade Thomaston students, that had been offered positions to attend the Wamogo Center during the 2017-2018 school year, and communicated that each of those five students had accepted such

¹ The names of all students contained in the exhibits attached hereto have been redacted to protect their identities, with the names of the students relevant to the underlying dispute replaced with letters or numbers.

² See note 1.

offers. The March Letter also confirmed the names of the four students (Student 1, Student 2, Student 3, and Student 4) who had been waitlisted and remained on the waiting list. Student 1, Student 2, and Student 4 were eighth graders, while Student 3 was a ninth grader. See Exhibit E.

On July 17, 2017, Barbara Hart, WRHS administrative assistant, sent to Kristin D. Thornton, Executive Secretary to Superintendent Coss, by email, a list of Thomaston residents planning to attend the Wamogo Center, including Student A, Student B, Student C, Student D, and Student E, as well as Student 1 (the “July Email” **attached as Exhibit F**).³ Then On August 22, 2017, TPS received two Request for Records forms purportedly signed by the parents of Student 2 and Student 4 on August 13, 2017, and August 14, 2017, respectively, requesting that Student 2’s and Student 4’s records be transmitted to WRHS (**attached as Exhibit G**). Having first received information that Student 2 and Student 4 were seeking to enroll in WRHS and/or the Wamogo Center on Tuesday, August 22, 2017, only eight (8) days before TPS’s first day of classes on Wednesday, August 30, 2017, Thornton contacted Chris Escobar, Assistant to the Superintendent of the R6BOE on August 22, 2017, by email (**attached as Exhibit H**), regarding the Request for Records forms TBOE had received, attaching the January Email, March Letter, July Letter, and the two Request for Records forms. See Exhibit H.

Thereafter, on Wednesday, August 23, 2017, Superintendent Coss spoke with Chris Leone, the R6BOE’s Superintendent of Schools, to ensure that the R6BOE, WRHS, and the Wamogo Center understood that Student 2 and Student 4, and any other

³ At the time, it was believed by TPS that Student 1 may have been included as part of the list of accepted Thomaston students because Student 1 had applied while a resident of Thomaston but had since moved out of Thomaston or otherwise planned to disenroll from TPS. It is now known that Student 1 remains a resident of Thomaston.

Thomaston student other than Student A, Student B, Student C, Student D, and Student E, and Thomaston students attending the Wamogo Center the previous school year, were not authorized to attend the Wamogo Center in order to ensure that Student 2 and Student 4, and any other Thomaston students mistakenly accepted to attend the Wamogo Center, would not have the start of their school year at Thomaston High School disrupted. Superintendent Leone, by telephone, asserted to Superintendent Coss that he was authorized by law to accept and enroll in the Wamogo Center more than the number of students authorized for enrollment in the Wamogo Center by the TBOE.

On Thursday, August 24, 2017, Superintendent Coss, with the start of the school year less than one week away, and in an effort to ensure that any new Thomaston students incorrectly accepted to the Wamogo Center, as well as their peers at Thomaston High School, would not experience a serious disruption of their educational experiences, directed Superintendent Leone that he not accept or permit to attend the Wamogo Center any more new Thomaston students than the five (5) that the TBOE had authorized for enrollment. Specifically, Superintendent Coss directed Superintendent Leone not to enroll Student 1, Student 2, Student 3, and Student 4. Superintendent Leone responded that he was authorized to accept and educate all interested students, and would permit Student 1, Student 2, Student 3, and Student 4 to attend the Wamogo Center tuition-free.

Further on August 24, 2017, Superintendent Coss informed Superintendent Leone of her concern that regardless of whether the waitlisted students were accepted tuition-free, doing so would increase the number of students the TBOE would be required to permit to attend the Wamogo Center in future years by increasing the TBOE's average number of students in attendance, as calculated pursuant to Conn. Gen. Stat. § 10-65(b),

causing future financial complications for the TBOE. Superintendent Coss requested that Superintendent Leone cease and desist from enrolling any new Thomaston students other than Student A, Student B, Student C, Student D, and Student E. Superintendent Leone refused.

On August 30, 2017, the TBOE filed a complaint in the Connecticut Superior Court naming the R6BOE, Leone as Superintendent of Schools, Leone in his individual capacity, and Rowland as director of the Wamogo Center, as defendants. *See Thomaston Bd. of Educ. v. Reg'l Sch. Dist. No. 6*, Docket No. UWY-CV-17-6036044-S (“the lawsuit”). The lawsuit seeks injunctive and declaratory relief and remains pending as of the date of this petition. Its outcome may depend in part on the SBE’s action on this petition. The parties have been unable to resolve their dispute and the lawsuit, in part due to issues the TBOE seeks to have resolved by the SBE via this petition, thereby making resolution of this petition important to both private and judicial resolution of the dispute.

The TBOE received a tuition bill for the 2017-2018 school year from the R6BOE dated October 24, 2017 (**attached as Exhibit I**). The bill sought tuition payments for eighteen (18) Thomaston students, itemized as follows: six (6) ninth grade students; five (5) tenth grade students; four (4) eleventh grade students; and three (3) twelfth grade students. *See Exhibit I*. It listed the names of, but no tuition due for, Students 2 and 4, both ninth graders, and Student 3, a tenth grader. *See id.* The TBOE has paid tuition for seventeen (17) students, accounting for twelve (12) previously enrolled Thomaston students in grades ten, eleven, and twelve, and the five (5) new enrollees it had authorized the R6BOE to enroll. The TBOE expects that recruiting by the R6BOE for new enrollment by Thomaston students in the Wamogo Center for the 2019-2020 school year will begin

early in the 2018-2019 school year, and therefore, resolution of this petition by at least October 1, 2018, will permit the TBOE to provide clear guidance to its students regarding the educational opportunities available to them.

IV. Discussion

a. **Local Boards of Education Have Broad Power and Discretion Regarding Local Educational Policy Which Should Apply to Actions by Sending Boards and ASTEC Boards Impacting the Application of § 10-65(b)**

The state legislature has prescribed the duties of a local or regional board of education in Connecticut General Statutes § 10-220. Section 10-220(a) provides, in relevant part:

Each local or regional board of education shall maintain good public elementary and secondary schools, implement the educational interests of the state, as defined in section 10-4a, **and provide such other educational activities as in its judgment will best serve the interests of the school district; provided any board of education may secure such opportunities in another school district in accordance with provisions of the general statutes . . . shall provide an appropriate learning environment for all its students . . . shall determine the number, age and qualifications of the pupils to be admitted into each school; . . . shall designate the schools which shall be attended by the various children within the school district; . . .**

(Emphasis added.) Section 10-220, by its language, establishes that a local board of education exercises broad authority and discretion over local educational matters, both as a policy making body, and as the employer of the district administrators and school personnel whom implement such policy. The Connecticut Supreme Court has recognized this fundamental role of a board of education as established by § 10-220, stating:

The chief function of local boards of education is to serve as policy maker on behalf of the state and **for the local community on educational matters**. The state has had a vital interest in the public schools from the earliest colonial times. . . . Article VIII, § 1, of the Connecticut constitution provides that "[t]here shall always be free public elementary and secondary

schools in the state. The general assembly shall implement this principle by appropriate legislation." Obviously, the furnishing of education for the general public is a state function and duty. . . . By statutory enactment the legislature has delegated this responsibility to the local boards who serve as agents of the state in their communities. . . . **Our statutes have conferred on the local board broad power and discretion over educational policy.** . . . Section 10-220 of the General Statutes sets forth the duties of boards of education.

West Hartford Educ. Assn. v. De Courcy, 162 Conn. 566, 573-74, 295 A.2d 526 (1972)

(citations omitted; emphasis added.).

i. Issue 1: Can a Sending Board limit the number of opportunities available for its students to attend an ASTEC to the minimum number of opportunities it is required to provide pursuant to § 10-65(b)?

The first issue presented for resolution under this petition is the principal issue raised by the factual circumstances summarized in Section III above. Section 10-65(b) provides, in relevant part:

Each local or regional board of education not maintaining an agricultural science and technology education center shall provide opportunities for its students to enroll in one or more such centers in . . . a number that is **at least equal to** the average number of its students that the board of education enrolled in each such center or centers during the previous three school years, provided, in addition to such number, each such board of education shall provide opportunities for its students to enroll in the ninth grade in . . . a number that is **at least equal to** the average number of students that the board of education enrolled in the ninth grade in each such center or centers during the previous three school years. . . .”

(Emphasis added.)

The emphasized phrase “at least equal to,” like the phrase “not less than,” establishes a minimum quantity requirement, in this case, a minimum number of opportunities that must be offered by a local or regional board of education for students to attend an ASTEC. Section 10-65(b) does not establish a maximum opportunities limit. Recognizing the presence of a minimum opportunities requirement, the central issue is

whether opportunities for students to attend an ASTEC can be limited after the minimum is met.

The TBOE's position is that a Sending Board must be permitted to limit the number of students that can attend an out-of-district ASTEC in order to exercise the right, held by any local or regional board of education, to manage the affairs of its school district, to make decisions regarding the educational opportunities available to its students, and allocate its monetary and non-monetary resources. That broad power and discretion should extend equally to the number of opportunities a Sending Board makes available for students to attend an ASTEC, allowing it to limit such opportunities as long as the Sending Board complies with the minimum number of opportunities it is required to provide under § 10-65(b), including making available only the minimum number of opportunities it is required to provide. The R6BOE has taken the position that because § 10-65 does not state a maximum limit, or explicitly state that a Sending Board has the authority to limit opportunities in excess of the minimums set forth therein, a Sending Board has no power to limit the ASTEC Board's ability to accept students in excess of the minimum required, or any other number authorized by the Sending Board, despite the local policy and fiscal impact on the Sending Board, whether in the then-current year or future years.

As discussed above, a local or regional board of education exercises broad power and discretion over educational policy pursuant to the legislative grant of such power and discretion by statute. Because such power is granted legislatively by statute, the only limits on that power and discretion are those similarly approved by the legislature. Section 10-65(b)'s minimum opportunities requirements is one example of a legislative limit on

boards of education's broad educational decision-making powers. Under § 10-65(b), a Sending Board's broad power and discretion over educational policy is limited in that the Sending Board must minimally make available a number of opportunities to attend an ASTEC as required under § 10-65(b). Once a Sending Board meets that minimum requirement, however, there is no other restriction set forth in § 10-65(b), or any other legislative mandate, that would curb the Sending Board's broad power and discretion to choose to limit the opportunities available to attend an out-of-district ASTEC.

The R6BOE has represented that because § 10-65(b) does not expressly permit a Sending Board to limit the number of opportunities available to students to attend an out-of-district ASTEC in the same manner that it expressly establishes a minimum number of opportunities that must be provided, a Sending Board cannot limit such opportunities in any manner. Such reasoning is flawed for at least two reasons. First, that reasoning ignores the manner in which the legislature delegates authority to act to public agencies like local and regional boards of education as discussed above. Second, logically, a *minimum* quantity requirement only has any purpose, meaning, or effect if there exists the authority or power to place a limit on the total quantity ultimately provided. If there were no power to limit the total number of student opportunities provided, then it would be unnecessary for the legislature to create a minimum number of student opportunities requirement because without the existence of authority to limit the number of such opportunities, there would always be *unlimited* opportunities available. Where there are unlimited student opportunities available—because there *cannot* be a limit as argued by the R6BOE—a minimum opportunities requirement is superfluous.

Connecticut courts utilize well settled principles of statutory interpretation in reviewing statutes for meaning and application, including “constru[ing] each sentence, clause or phrase to have a purpose behind it. . . . In addition, we presume that the legislature intends sensible results from the statutes it enacts. . . . Therefore, we read each statute in a manner that will not thwart its intended purpose or lead to absurd results.” *Collins v. Colonial Penn Ins. Co.*, 257 Conn. 718, 728-29, 778 A.2d 899 (2001). “It is a basic tenet of statutory construction that the legislature [does] not intend to enact meaningless provisions. . . . In construing statutes, we presume that there is a purpose behind every sentence, clause, or phrase used in an act and that no part of a statute is superfluous.” *Echavarría v. National Grange Mutual Ins. Co.*, 275 Conn. 408, 415, 880 A.2d 882 (2005).

A finding by the SBE that the legislature did not recognize that a Sending Board may limit the opportunities available to students to attend an out-of-district ASTEC when it enacted the minimum opportunities requirements of § 10-65(b) does not conform to generally accepted principles of statutory interpretation. Such a finding would render § 10-65(b)'s minimum opportunities requirements meaningless. Instead, such minimum requirements only have meaning if it is presumed that a Sending Board retains the power to place a limit or cap on the number of opportunities for students to attend out-of-district ASTECs available. The only restriction in § 10-65(b) is that such limit must be greater than or equal to the statutory minimums. Therefore, petitioner requests that the SBE issue a declaratory ruling that a local or regional board of education that does not maintain an ASTEC can limit the number of opportunities available for its students to attend an ASTEC

to the minimum number of opportunities such board is required to provide pursuant to § 10-65(b).

ii. Issue 2: Can an ASTEC Board unilaterally elect to accept and enroll students of a Sending Board in a number that exceeds the number of opportunities for students to attend an ASTEC the Sending Board has made available?

If the SBE rules that a Sending Board can limit the number of opportunities it makes available for its students to attend an ASTEC, the question arises whether, despite any such limit established by the Sending Board, the ASTEC Board can nevertheless unilaterally admit students of the Sending Board in numbers that exceed such limit. The TBOE's position is that no, an ASTEC Board cannot exceed any limit created by a Sending Board on the number of opportunities it makes available to its students to attend the ASTEC. Permitting such action by an ASTEC Board would usurp the right of the Sending Board to exercise its broad and discretionary decision-making powers regarding the educational opportunities it makes available to students under its jurisdiction, the manner of education of such students, and the allocation of district resources, both monetary and non-monetary. Importantly, not only would the ASTEC Board's admission of additional students usurp the Sending Board's power to manage the educational opportunities it offers and its budget in the then-current year, including by incurring unplanned-for tuition and transportation costs, but it would have a lasting impact in future years by increasing the three-year average attendance numbers. As a result, in future years, through the action of the ASTEC Board, the Sending Board would be obligated to provide increased numbers of opportunities to its students to attend the ASTEC, incurring additional tuition, transportation, and related expenses. Therefore, petitioner requests that the SBE issue a declaratory ruling that a local or regional board of education that

maintains an ASTEC cannot admit and enroll students of a local or regional board of education that does not maintain an ASTEC in numbers that exceed a specified number of opportunities made available to its students by such board of education, if any.

- iii. Issue 3: Are the rulings on issues 1 and 2 impacted by whether an ASTEC Board accepts and enrolls some or all of the students of a Sending Board on a tuition-basis versus non-tuition-basis? How does the tuition status impact the manner in which the three-year averages under § 10-65(b) are calculated? Specifically, if an ASTEC Board accepts and permits to attend, on a tuition-free basis, a Sending Board's student, must that student be counted in the number of students attending the ASTEC as part of the calculation of the minimum number of opportunities the board of education is required to provide students in future years—on a tuition-basis—pursuant to § 10-65(b)? If so, (a) can the Sending Board limit the number of its students that attend an ASTEC on a tuition-free basis; and (b) can the ASTEC Board charge tuition for such student's attendance in future years?**

Section 10-65(b) provides, in relevant part, “[t]he board of education operating an agricultural science and technology education center may charge . . . tuition for a school year in an amount not to exceed fifty-nine and two-tenths per cent of the foundation level . . . per student for the fiscal year in which the tuition is paid” As § 10-65(b) presumes, an ASTEC Board will generally charge tuition from the Sending Board for students attending an ASTEC which the Sending Board will be obligated to pay. If an ASTEC Board were limited to accepting only a specified number of students by a Sending Board, for whom the Sending Board pays tuition to the ASTEC Board to attend the ASTEC, an ASTEC Board may argue that it can offer acceptance to additional students on a tuition-free basis since the Sending Board will not be financially burdened by such acceptance that school year. One reason an ASTEC Board might offer attendance on a tuition-free basis to a Sending Board's student is to increase the number of students attending the

ASTEC from the Sending District, thereby increasing the three-year average number of students attending the ASTEC, and in turn, under § 10-65(b), obligating the Sending Board to offer more opportunities for students to attend the ASTEC in future years on a tuition-basis. As previously discussed above, such an outcome usurps the right of the Sending Board to exercise its broad and discretionary decision-making powers regarding the educational opportunities it makes available to students under its jurisdiction and in particular, its discretion to manage its financial resources. Accordingly, the petitioner seeks a declaratory ruling that any students of a local or regional board of education that does not maintain an ASTEC that attend an ASTEC on a tuition-free basis shall not be counted towards the three-year average calculations under § 10-65(b).

That ruling alone, however, will not solve other foreseeable issues under § 10-65(b) arising from an offer of tuition-free admission. Even if tuition-free students are not counted towards the three-year averages, if an ASTEC Board were to offer a student tuition-free admission one year, and then decided that it could no longer offer tuition-free attendance the following year, the student's Sending Board would be placed in the uncomfortable position of having to decide between maintaining a balanced budget by denying the student continued attendance at the ASTEC, or sustaining the student's chosen high school educational experience by approving additional expenditures at the expense of other district programs and opportunities. Such restriction of other programs and opportunities might include restricting opportunities that would have otherwise been offered to rising ninth graders.

No matter the ultimate outcome, the Sending Board would not be placed in such a predicament *but for* the unilateral action of the ASTEC Board, such action having

impinged upon the Sending Board's exercise of discretion in educational matters within its authority. Such a dilemma would be avoided, however, if, in addition to not counting the tuition-free student towards the Sending Board's three-year average, the ASTEC Board were required to maintain such student's tuition-free status for the remainder of the student's high school education. In that situation, the Sending Board's three-year average is preserved, budgetary decisions are not made for it by an outside party, and the student's agricultural science and technology education is not disrupted. Therefore, petitioner requests that the SBE issue a declaratory ruling that any students of a local or regional board of education that does not maintain an ASTEC that attend an ASTEC on a tuition-free basis shall not be counted towards the three-year average calculations under § 10-65(b), and that if a local or regional board of education maintaining an ASTEC accepts and enrolls an out-of-district student in an ASTEC on a tuition-free basis, that such board must maintain such tuition-free enrollment of the student for the entirety of such student's high school education.

b. The R6BOE Exceeded Its Authority In Accepting and Enrolling Students in the Wamogo Center In Excess of the Number Authorized by the TBOE, Creating a Lasting Deleterious Impact on the TBOE Unless Remedied by the SBE

- i. Issue 4: As applicable to the 2017-2018 school year, did the TBOE have the authority under Connecticut General Statutes § 10-220, § 10-65, or any other provision of the Connecticut General Statutes, to limit the number of TBOE students the R6BOE was permitted to accept to attend the Wamogo Center to the minimum number required by § 10-65(b)?**

The average number of ninth grade students enrolled in the Wamogo Center over the three years preceding the 2017-2018 school year was 4.3.⁴ As summarized in greater detail in Section III above, during the 2016-2017 school year, in order to comply with § 10-65(b), the TBOE authorized the R6BOE to accept up to five (5) eighth grade Thomaston students to attend ninth grade at the Wamogo Center during the 2017-2018 school year. The R6BOE acknowledged the TBOE's authorization, and accepted five (5) eighth grade Thomaston students and placed four (4) other Thomaston students on a waiting list, three (3) of them ninth graders, and one (1) a tenth grader. In the summer of 2017, however, the R6BOE accepted all four (4) students on the waiting list without authorization from the TBOE, and enrolled nine (9) Thomaston students in the Wamogo Center that had not previously attended, making the total number of Thomaston students attending the Wamogo Center during the 2017-2018 school year twenty-one (21).

Under § 10-65(b), the TBOE was required to permit at least five (5) ninth graders to attend the Wamogo Center during the 2017-2018 school year. Accordingly, the TBOE authorized the R6BOE to accept and enroll five (5) ninth grade Thomaston students in addition to the twelve (12) Thomaston students already enrolled and attending the Wamogo Center for a total of seventeen (17) Thomaston students attending the Wamogo Center. The TBOE has paid the R6BOE tuition for those seventeen (17) students. The TBOE acknowledges that although the practice of permitting only ninth graders to enroll has in the past also satisfied the total student requirement of § 10-65(b), due to an unusually large group of graduating Thomaston students during the 2016-2017 school

⁴ Three (3) ninth grade Thomaston students attended during the 2014-2015 school year, five (5) ninth grade Thomaston students attended during the 2015-2016 school year, and five (5) ninth grade Thomaston students attended during the 2016-2017 school year.

year (seven students), permitting only five (5) ninth grade students as new students, along with the twelve (12) non-graduating current students, did not satisfy the total number of students requirement which was later determined to be eighteen (18) students. Nevertheless, the R6BOE has accepted eight (8) ninth grade, and twenty-one (21) total Thomaston students, three (3) more than the minimum opportunities required by § 10-65(b).

For the reasons discussed above in Section IV.a., the TBOE properly acted within its inherent authority to limit the number of opportunities available to Thomaston students to attend the Wamogo Center to what it understood to be the minimum number of opportunities required by § 10-65(b). Therefore, petitioner seeks a declaratory ruling that for the 2017-2018 school year, the TBOE was permitted to limit the number of Thomaston students the R6BOE and the Wamogo Center could accept and enroll to the minimum number required by § 10-65(b), which was five (5) ninth grade students and eighteen (18) total students.

ii. Issue 5: As applicable to the 2017-2018 school year, did the R6BOE exceed its authority under § 10-65 or any other provision of the Connecticut General Statutes to accept TBOE students to attend the Wamogo Center when it accepted additional TBOE students in excess of the number that the TBOE had authorized the R6BOE to accept?

It is the position of the TBOE that the R6BOE exceeded its authority in accepting and enrolling four more students than had been authorized by the TBOE. Although the TBOE initially sought to limit the total number of opportunities to seventeen, one less than the total number of eighteen it now understands to have been required under the three-year average requirement of § 10-65(b), it is not the role, duty, or within the authority of

the R6BOE to police the TBOE's compliance with § 10-65(b), or any other state statute, and to take remedial action for any perceived non-compliance. Furthermore, it is certainly not within the authority of the R6BOE to make decisions for the TBOE regarding the educational opportunities it makes available to Thomaston students, or to make spending decisions and incur debts, both current and future, for the TBOE. That is, however, what the R6BOE has done under the present circumstances. By admitting eight (8) ninth graders and twenty-one (21) students total to the Wamogo Center, when the TBOE was only required to permit five (5) ninth graders and eighteen (18) students total to attend the Wamogo Center, the R6BOE and the Wamogo Center have unilaterally increased the number of students the TBOE will be required to send for the 2018-2019 school year from five (5) ninth graders and nineteen (19) students total, to six (6) ninth graders and twenty (20) students total. Therefore, petitioner seeks a declaratory ruling that for the 2017-2018 school year, the R6BOE exceeded its authority under § 10-65 to accept TBOE students to attend the Wamogo Center when it accepted additional TBOE students in excess of the number that the TBOE had authorized the R6BOE to accept.

iii. Issue 6: How should the TBOE calculate the number of opportunities it is required to provide students to attend an ASTEC during the 2018-2019 school year?

The issues identified above have created uncertainty regarding how the TBOE is required to calculate the number of students attending the Wamogo Center during the 2017-2018 school year for purposes of calculating the three-year averages under § 10-65(b). Twenty-one Thomaston students current attend the Wamogo Center. Of the twenty-one total students, eight are ninth graders. Accordingly, the TBOE has met its obligation under § 10-65(b) to provide opportunities to attend the Wamogo Center to five

ninth grade Thomaston students and eighteen Thomaston students total in accord with the three-year averages under § 10-65(b). The R6BOE, per the tuition bill it sent to the TBOE; see Exhibit I; sought payment for tuition as follows—six (6) ninth grade students, five (5) tenth grade students; four (4) eleventh grade students, and three (3) twelfth grade students. The R6BOE's tuition bill did not seek tuition payments for two (2) ninth grade students and one (1) tenth grade student. See *id.* Although the TBOE acknowledges that it may ultimately be required to pay tuition for eighteen (18) Thomaston students, the TBOE disputes that it should be required to pay tuition in the manner of distribution identified by the R6BOE, as the TBOE has always maintained that it did not and has not authorized the R6BOE to admit and enroll more than five (5) Thomaston ninth grade students for the 2017-2018 school year, and therefore, it has not and will not pay tuition for more than five (5) ninth grade students. Thus, any tuition-free attendance should attach to the three (3) remaining ninth grade students, rather than to only two (2) ninth grade students and one (1) tenth grade student.

The reasons the R6BOE has permitted tuition-free attendance for two (2) ninth grade students and one (1) tenth grade student, as opposed to the three (3) ninth grade students which clearly exceeded the TBOE's accepted authorization, are transparent attempts to ensure increased future tuition payments to the R6BOE. First, the attendance of six (6) ninth grade Thomaston students as counted towards the three-year average would increase the three-year average of ninth grade Thomaston students attending the Wamogo Center from an even five, to 5.3, increasing the number of opportunities the TBOE would be required to make available to ninth grade students during the 2018-2019 school year to six, and likely to further increase in future years, ensuring increased tuition

payments to the R6BOE by the TBOE. Second, if the TBOE later continued to permit all students attending the Wamogo Center in 2017-2018 to attend for the remainder of their high school educations, and the R6BOE sought tuition payments for such subsequent years of attendance, it could collect tuition payments for at least three more years for a current ninth grade student, as opposed to likely only two years for a tenth grade student.

As specifically discussed in Section III.a.iii. above, permitting tuition-free attendance for Thomaston students during the 2017-2018 school year without assurance as to the tuition-paying status for such students in future years burdens the TBOE's autonomy in making decisions regarding the educational opportunities it provides and the manner in which it spends its appropriations from the Town of Thomaston. Having to pay tuition for such students in future years inflates the three-year averages and potentially creates difficult decisions regarding continuing the attendance of those students. As has been discussed repeatedly throughout this petition, permitting the R6BOE to financially burden the TBOE through unilateral action of the R6BOE, including permitting it to inflate the TBOE's three-year averages and determining the manner in which the TBOE determines its compliance with the obligations of § 10-65(b), is inapposite to the discretion granted to a local board of education like the TBOE to manage the affairs of its school district and students.

Therefore, petitioner seeks a declaratory ruling that for purposes of calculating the average number of Thomaston students that attended the Wamogo Center during the 2017-2018 school year under § 10-65(b), the TBOE shall be considered to have provided opportunities for eighteen (18) Thomaston students total, five (5) in the ninth grade, six (6) in the tenth grade, four (4) in the eleventh grade, and three (3) in the twelfth grade.

Petitioner further seeks a declaratory ruling that the three (3) additional ninth grade Thomaston students enrolled in the Wamogo Center by the R6BOE shall have attended the Wamogo Center tuition-free for the 2017-2018 school year, shall continue to be provided the opportunity to attend the Wamogo Center tuition-free for the remainder of their high school educations, and shall not be counted towards the TBOE's three-year averages under § 10-65(b) in future years.

c. What Are the Obligations of Parties to a Written Agreement under § 10-65(b)?

- i. Issue 7: If a Sending Board enters into a written agreement with an ASTEC Board regarding the provision of opportunities for its students to attend an ASTEC as permitted by § 10-65(b), can the parties decide in such agreement that in future years, whether governed by the agreement or after the agreement has expired, numbers that are less than the actual numbers of students that attended the ASTEC in years governed by the agreement will be used in calculating the number of opportunities for students to attend the ASTEC that the Sending Board is required to provide pursuant to § 10-65(b)? Or must the actual number of students that attended the ASTEC be used? For example, is it permissible and enforceable under § 10-65(b) for the parties to agree to the following: "For the current year, Sending Board A agrees to send to ASTEC B: 8 students that will be counted as ninth graders, 4 students that will be counted as students in grades 10, 11, or 12, and an additional 3 students that will not be counted towards Sending Board A's three-year average number of required students in future years under § 10-65(b)."**

Section 10-65(b) provides that a Sending Board can comply with § 10-65(b) by providing opportunities for its students to attend one or more ASTECs "in a number that is at least equal to the number specified in any written agreement" with each ASTEC or ASTECs, and that it is only "in the absence of such an agreement," that a Sending Board need provide opportunities according to the three-year averages set forth therein. See §

10-65(b). Given the language of § 10-65(b), the R6BOE, and likely other ASTEC Boards, have entered into such agreements with Sending Districts. In considering such agreements and the prospect of any such future agreements, the issue has been raised whether parties to such an agreement can agree on the number of students that will be considered to have attended the ASTEC during a particular year of the agreement regardless of the number of students that actually attended the ASTEC in that year. The purpose of such a provision is to control the three-year average number of students of the Sending Board that attended the ASTEC, likely by maintaining pre-agreement numbers or reducing them when such average would otherwise increase absent a written agreement. As a result, if the parties fail to extend or renew the agreement in the future and the three-year averages requirements apply, the Sending Board will not be negatively affected by any increased student enrollment action during the time period governed by the agreement. The effect, however, would be to alter a legislative enactment through a private agreement between two third parties.

The TBOE has not yet entered into a written agreement containing any such provision, but has considered the prospect of entering into an agreement containing such a provision. *See, e.g., Memorandum of Understanding between Regional School District No. 6 and Regional School District No. 10 (attached as Exhibit J)*. Therefore, petitioner seeks a declaratory ruling by the SBE regarding the above-summarized circumstances, namely, whether a Sending Board satisfies its obligations under § 10-65(b) if, following the expiration or otherwise in the absence of a written agreement, it provides opportunities to students to attend an ASTEC in accord with three-year averages based on attendance numbers previously agreed to between the Sending Board and the ASTEC Board under

a prior private agreement rather than actual numbers of students that attended the ASTEC in the applicable years.

V. Conclusion and Requested Remedies

For all the foregoing reasons, petitioner requests the SBE issue the following declaratory rulings:

1. A local or regional board of education that does not maintain an ASTEC can limit the number of opportunities available for its students to attend an ASTEC to the minimum number of opportunities such board is required to provide pursuant to § 10-65(b).
2. A local or regional board of education that maintains an ASTEC cannot admit and enroll students of a local or regional board of education that does not maintain an ASTEC in numbers that exceed a specified number of opportunities made available to its students by such board of education, if any.
3. Any students of a local or regional board of education that does not maintain an ASTEC that attend an ASTEC on a tuition-free basis shall not be counted towards the three-year average calculations under § 10-65(b).
4. If a local or regional board of education maintaining an ASTEC accepts and enrolls an out-of-district student in an ASTEC on a tuition-free basis, such board must maintain such tuition-free enrollment of the student for the entirety of such student's high school education.
5. For the 2017-2018 school year, the Thomaston Board of Education was permitted to limit the number of its students the Region 6 Board of Education and the Wamogo Center could accept and enroll to the minimum number required by § 10-65(b), which was five ninth grade students and eighteen total students.
6. For the 2017-2018 school year, the Region 6 Board of Education exceeded its authority under § 10-65 to accept Thomaston Board of Education students to attend the Wamogo Center when it accepted additional Thomaston students in excess of the number that the Thomaston Board of Education had authorized the Region 6 Board of Education to accept.
7. For purposes of calculating the average number of Thomaston Board of Education students that attended the Wamogo Center during the 2017-2018 school year under § 10-65(b), the Thomaston Board of Education shall be considered to have provided opportunities for eighteen (18) Thomaston

students total, five (5) in the ninth grade, six (6) in the tenth grade, four (4) in the eleventh grade, and three (3) in the twelfth grade. Further the three (3) additional ninth grade Thomaston students enrolled in the Wamogo Center by the Region 6 Board of Education shall be considered to have attended the Wamogo Center tuition-free for the 2017-2018 school year, shall continue to be provided the opportunity to attend the Wamogo Center tuition-free for the remainder of their high school educations, and shall not be counted towards the Thomaston Board of Education's three-year averages under § 10-65(b) in future years.

Petitioner further requests that the SBE issue a declaratory ruling regarding whether a Sending Board satisfies its obligations under § 10-65(b) if, following the expiration or otherwise in the absence of a written agreement, it provides opportunities to students to attend an ASTEC in accord with three-year averages based on attendance numbers previously agreed to between the Sending Board and the ASTEC Board under a prior private agreement rather than actual numbers of students that attended the ASTEC in the applicable years.

**PETITIONER,
THOMASTON BOARD OF EDUCATION**

By: _____

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition for Declaratory Ruling has been served upon the following by certified mail, and email, this 26th day of April, 2018:

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EXHIBIT A

Conn. Gen. Stat. § 10-64

Current through the 2017 Regular and 2017 Special Sessions.

LexisNexis® Connecticut Annotated Statutes > Title 10 Education and Culture > Chapter 164 Educational Opportunities > Part IV Regional Agricultural Science and Technology Education Centers

Sec. 10-64. Establishment of regional agricultural science and technology education centers. Moratorium; exception. Tuition and transportation.

- (a) Any local or regional board of education may enter into agreements with other such boards of education to establish a regional agricultural science and technology education center in conjunction with its regular public school system, provided such center shall have a regional agricultural science and technology education consulting committee which shall advise the operating board of education but shall have no legal authority with respect to such center. Such agreements may include matters pertaining to the admission of students, including the establishment of a reasonable number of available program acceptances and the criteria for program acceptance. Each board of education shall appoint to said committee two representatives, who have a competent knowledge of agriculture or aquaculture, as appropriate, and who need not be members of such board.
- (b) No new agricultural science and technology education center shall be approved by the State Board of Education pursuant to *section 10-65* during the three-year period from July 1, 1993, to June 30, 1996, except that the State Board of Education may approve such a center if it is to be operated by the board of education of a local or regional school district with fifteen thousand or more resident students, as defined in subdivision (19) of [section 10-262f](#). If a new regional agricultural science and technology education center is established for a school district pursuant to this subsection, any resident student of such school district who, during the school year immediately preceding the initial operation of such center, was enrolled in grades 10 to 12, inclusive, in a regional agricultural science and technology education center operated by another local or regional board of education, may continue to be enrolled in such regional agricultural science and technology education center.
- (c) For purposes of this section and *sections 10-65* and [10-66](#), the term "agricultural science and technology education" includes vocational aquaculture and marine-related employment.
- (d) Any local or regional board of education which does not furnish agricultural science and technology education approved by the State Board of Education shall designate a school or schools having such a course approved by the State Board of Education as the school which any person may attend who has completed an elementary school course through the eighth grade. The board of education shall pay the tuition and reasonable and necessary cost of transportation of any person under twenty-one years of age who is not a graduate of a high school or technical education and career school or an agricultural science and technology education center and who attends the designated school, provided transportation services may be suspended in accordance with the provisions of *section 10-233c*. Each such board's reimbursement percentage pursuant to *section 10-266m*, as amended by this act, for expenditures in excess of eight hundred dollars per pupil incurred in the fiscal year beginning July 1, 2004, and in each fiscal year thereafter, shall be increased by an additional twenty percentage points.

History

Conn. Gen. Stat. § 10-64

1955, S. 920d; 1967, P.A. 638, S. 1; P.A. 78-218, S. 47; [P.A. 89-387, S. 36](#), 41; [P.A. 93-410, S. 1](#), 6; [P.A. 04-197, S. 2](#); [P.A. 08-152, S. 1](#); [08-170, S. 19](#); [P.A. 09-45, S. 1](#); P.A. 12-116, S. 87, eff. July 1, 2012; [P.A. 17-237, S. 49](#), eff. July 1, 2017.

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EXHIBIT B

Conn. Gen. Stat. § 10-97

Current through the 2017 Regular and 2017 Special Sessions.

LexisNexis® Connecticut Annotated Statutes > Title 10 Education and Culture > Chapter 164 Educational Opportunities > Part VI Technical High Schools, Education and Rehabilitation

Sec. 10-97. Transportation to technical high schools.

- (a) The board of education of any town or, where the boards of education of constituent towns have so agreed, any regional school district shall provide the reasonable and necessary transportation, except as provided in [section 10-233c](#), for any student under twenty-one years of age who is not a graduate of a high school or technical education and career school and who resides with a parent or guardian in such town or regional school district or who belongs to such town, and who attends a state or state-approved technical education and career school within such local or regional school district as a regular all-day student or as a high school cooperative student, and for any such student who attends any such school in a town other than the town of his residence. When the cost of such transportation out-of-town would exceed the sum of two hundred dollars per year, said board of education may elect to maintain such student in the town where he or she attends such technical education and career school and for the cost of such maintenance the local or regional school district shall be reimbursed in the same manner and to the same extent as in the case of payment for transportation. Each such board's reimbursement percentage pursuant to [section 10-266m](#), as amended by this act, for expenditures in excess of eight hundred dollars per pupil incurred in the fiscal year beginning July 1, 1987, and in each fiscal year thereafter, shall be increased by an additional twenty percentage points.
- (b) Any local or regional board of education which does not furnish agricultural science and technology education approved by the State Board of Education shall designate a school or schools having such a course approved by the State Board of Education as the school which any person may attend who has completed an elementary school course through the eighth grade. The board of education shall pay the tuition and reasonable and necessary cost of transportation of any person under twenty-one years of age who is not a graduate of a high school or technical education and career school and who attends the designated school, provided transportation services may be suspended in accordance with the provisions of [section 10-233c](#). Each such board's reimbursement percentage pursuant to [section 10-266m](#), as amended by this act, for expenditures in excess of eight hundred dollars per pupil incurred in the fiscal year beginning July 1, 1987, and in each fiscal year thereafter, shall be increased by an additional twenty percentage points.
- (c) Any local or regional board of education which transports students to a state or state-approved technical education and career school, or school furnishing agricultural science and technology education shall be reimbursed for a portion of such pupil transportation annually in accordance with the provisions of [section 10-266m](#), as amended by this act, and the provisions of subsections (a) and (b) of this section relating to reimbursement percentages, provided the reimbursement for transportation costs to a school furnishing vocational agricultural training shall not exceed an amount equal to such reimbursement of the costs of transporting such pupils to the school furnishing a full program of vocational agricultural training nearest to the sending school district at the time of the pupil's initial enrollment in the program. Application for such reimbursement shall be made by the board of education to the State Board of Education at such time and in such manner as said state board prescribes. The provisions of this section shall apply to a veteran who served in time of war, as defined by [section 27-103](#), without regard to age or whether or not such veteran resides with a parent or guardian provided such veteran is attending a state or state-approved vocational secondary school.

Conn. Gen. Stat. § 10-97

- (d) The parents or guardian of any student or any veteran over twenty-one who is denied the reasonable and necessary transportation required in this section may appeal such lack of transportation in the same manner as is provided in [sections 10-186](#) and [10-187](#), as amended by this act.
- (e) For purposes of this section, a local or regional board of education shall not be required to expend for transporting a student to a technical education and career school or an agricultural science and technology education center an amount greater than six thousand dollars, except that a board of education shall continue to pay the reasonable and necessary costs of transporting a student who is enrolled in such a school or center on July 1, 1996, until such student completes the program at such school or center.

History

1949 Rev., S. 1406; 1951, 1953, S. 933d; 1957, P.A. 163, S. 20; 1959, P.A. 178, S. 1; 1961, P.A. 392; 1963, P.A. 445; 1967, P.A. 190, S. 1; 1969, P.A. 603, S. 1; P.A. 77-614, S. 302, 610; P.A. 78-218, S. 80; 78-272, S. 1, 6; P.A. 79-128, S. 27, 36; P.A. 80-404, S. 2, 4; P.A. 82-133, S. 1, 2; P.A. 83-32, S. 1, 2; 83-119, S. 3, 8; P.A. 86-71, S. 1, 11; [P.A. 88-136, S. 6](#), 7, 37; [P.A. 96-161, S. 4](#), 13; June Sp. Sess. *P.A. 07-5*, S. 46; [P.A. 08-152, S. 6](#); [08-170, S. 24](#); *P.A. 12-116*, S. 87, eff. July 1, 2012; June 12 Sp. Sess. *P.A. 12-2*, S. 100, eff. Oct. 1, 2012; [P.A. 17-237, S. 67](#), eff. July 1, 2017.

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EXHIBIT C

Conn. Gen. Stat. § 10-65

Current through the 2017 Regular and 2017 Special Sessions.

LexisNexis® Connecticut Annotated Statutes > Title 10 Education and Culture > Chapter 164 Educational Opportunities > Part IV Regional Agricultural Science and Technology Education Centers

Sec. 10-65. Grants for constructing and operating agricultural science and technology education centers. Tuition charges.

- (a) Each local or regional school district operating an agricultural science and technology education center approved by the State Board of Education for program, educational need, location and area to be served shall be eligible for the following grants: (1) In accordance with the provisions of chapter 173, through progress payments in accordance with the provisions of [section 10-287i](#), (A) for projects for which an application was filed prior to July 1, 2011, ninety-five per cent, and (B) for projects for which an application was filed on or after July 1, 2011, eighty per cent of the net eligible costs of constructing, acquiring, renovating and equipping approved facilities to be used exclusively for such agricultural science and technology education center, for the expansion or improvement of existing facilities or for the replacement or improvement of equipment therein, and (2) subject to the provisions of [section 10-65b](#) and within available appropriations, in an amount equal to three thousand two hundred dollars per student for every secondary school student who was enrolled in such center on October first of the previous year.
- (b) Each local or regional board of education not maintaining an agricultural science and technology education center shall provide opportunities for its students to enroll in one or more such centers in a number that is at least equal to the number specified in any written agreement with each such center or centers, or in the absence of such an agreement, a number that is at least equal to the average number of its students that the board of education enrolled in each such center or centers during the previous three school years, provided, in addition to such number, each such board of education shall provide opportunities for its students to enroll in the ninth grade in a number that is at least equal to the number specified in any written agreement with each such center or centers, or in the absence of such an agreement, a number that is at least equal to the average number of students that the board of education enrolled in the ninth grade in each such center or centers during the previous three school years. If a local or regional board of education provided opportunities for students to enroll in more than one center for the school year commencing July 1, 2007, such board of education shall continue to provide such opportunities to students in accordance with this subsection. The board of education operating an agricultural science and technology education center may charge, subject to the provisions of [section 10-65b](#), tuition for a school year in an amount not to exceed fifty-nine and two-tenths per cent of the foundation level pursuant to subdivision (9) of [section 10-262f](#), per student for the fiscal year in which the tuition is paid, except that such board may charge tuition for (1) students enrolled under shared-time arrangements on a pro rata basis, and (2) special education students which shall not exceed the actual costs of educating such students minus the amounts received pursuant to subdivision (2) of subsection (a) of this section and subsection (c) of this section. Any tuition paid by such board for special education students in excess of the tuition paid for non-special-education students shall be reimbursed pursuant to [section 10-76g](#).
- (c) In addition to the grants described in subsection (a) of this section, within available appropriations, (1) each local or regional board of education operating an agricultural science and technology education center in which more than one hundred fifty of the students in the prior school year were out-of-district students shall be eligible to receive a grant in an amount equal to five hundred dollars for every secondary school student enrolled in such center on October first of the previous year, (2) on and after July 1, 2000, if a local or regional board of education operating an agricultural science and technology education center that

Conn. Gen. Stat. § 10-65

received a grant pursuant to subdivision (1) of this subsection no longer qualifies for such a grant, such local or regional board of education shall receive a grant in an amount determined as follows: (A) For the first fiscal year such board of education does not qualify for a grant under said subdivision (1), a grant in the amount equal to four hundred dollars for every secondary school student enrolled in its agricultural science and technology education center on October first of the previous year, (B) for the second successive fiscal year such board of education does not so qualify, a grant in an amount equal to three hundred dollars for every such secondary school student enrolled in such center on said date, (C) for the third successive fiscal year such board of education does not so qualify, a grant in an amount equal to two hundred dollars for every such secondary school student enrolled in such center on said date, and (D) for the fourth successive fiscal year such board of education does not so qualify, a grant in an amount equal to one hundred dollars for every such secondary school student enrolled in such center on said date, and (3) each local and regional board of education operating an agricultural science and technology education center that does not receive a grant pursuant to subdivision (1) or (2) of this subsection shall receive a grant in an amount equal to sixty dollars for every secondary school student enrolled in such center on said date.

- (d) (1) If there are any remaining funds after the amount of the grants described in subsections (a) and (c) of this section are calculated, within available appropriations, each local or regional board of education operating an agricultural science and technology education center shall be eligible to receive a grant in an amount equal to one hundred dollars for each student enrolled in such center on October first of the previous school year. (2) If there are any remaining funds after the amount of the grants described in subdivision (1) of this subsection are calculated, within available appropriations, each local or regional board of education operating an agricultural science and technology education center that had more than one hundred fifty out-of-district students enrolled in such center on October first of the previous school year shall be eligible to receive a grant based on the ratio of the number of out-of-district students in excess of one hundred fifty out-of-district students enrolled in such center on said date to the total number of out-of-district students in excess of one hundred fifty out-of-district students enrolled in all agricultural science and technology education centers that had in excess of one hundred fifty out-of-district students enrolled on said date.
- (e) For the fiscal years ending June 30, 2012, and June 30, 2013, the Department of Education shall allocate five hundred thousand dollars to local or regional boards of education operating an agricultural science and technology education center in accordance with the provisions of subsections (b) to (d), inclusive, of this section.
- (f) For the fiscal year ending June 30, 2013, and each fiscal year thereafter, if a local or regional board of education receives an increase in funds pursuant to this section over the amount it received for the prior fiscal year such increase shall not be used to supplant local funding for educational purposes.
- (g) Notwithstanding the provisions of [sections 10-51](#) and [10-222](#), for the fiscal years ending June 30, 2015, to June 30, 2017, inclusive, any amount received by a local or regional board of education pursuant to subdivision (2) of subsection (a) of this section that exceeds the amount appropriated for education by the municipality or the amount in the budget approved by such regional board of education for purposes of said subdivision (2) of subsection (a) of this section, shall be available for use by such local or regional board of education, provided such excess amount is spent in accordance with the provisions of subdivision (2) of subsection (a) of this section.

History

1955, S. 921d; 1961, P.A. 40; 1967, P.A. 638, S. 2; P.A. 78-218, S. 48; P.A. 82-204, S. 1, 2; P.A. 83-106, S. 1, 2; P.A. 84-460, S. 1, 16; P.A. 85-463, S. 1, 2; P.A. 86-71, S. 5, 11; [P.A. 89-355, S. 3](#), 20; June Sp. Sess. P.A. 91-7, S. 2, 22; [P.A. 93-410, S. 2](#), 6; [P.A. 95-226, S. 14](#), 30; [P.A. 96-178, S. 8](#), 18; [P.A. 97-247, S. 13](#), 27; [P.A. 00-192, S. 82](#), 102; [P.A. 01-173, S. 11](#), 67; May 9 Sp. Sess. P.A. 02-5, S. 5; [P.A. 04-197, S. 1](#); June Sp. Sess. P.A. 07-3, S. 24; [P.A. 08-152, S. 2](#); [08-170, S. 20](#); [P.A. 09-45, S. 2](#), 3; [P.A. 11-48, S. 203](#); [11-61, S. 86](#); P.A. 12-116, S. 64, eff. July

Conn. Gen. Stat. § 10-65

1, 2012; June 12 Sp. Sess. *P.A. 12-1*, S. 236, eff. July 1, 2012; [P.A. 13-247, S. 170](#), eff. July 1, 2013; [P.A. 14-217, S. 118](#), 119, eff. July 1, 2014; [P.A. 15-215, S. 8](#), eff. July 1, 2015; Sp. Sess. *P.A. 15-5*, S. 253, 254, eff. July 1, 2015.

LexisNexis® Connecticut Annotated Statutes

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End of Document

EXHIBIT D



Francine Coss <fcoss@thomastonschools.org>

Fwd: Wamogo Acceptances

13 messages

John Perrucci

Fri, Jan 20, 2017 at 2:23

<jperrucci@thomastonschools.org>

PM

To: Francine Coss <fcoss@thomastonschools.org>

As you can see from this message, WAMOGO accepted 5 students. I believe it should be 4, if not only 3.

----- Forwarded message -----

From: **Steve Malo** <smalo@thomastonschools.org>

Date: Fri, Jan 20, 2017 at 12:42 PM

Subject: Fwd: Wamogo Acceptances

To: John Perrucci <JPerrucci@thomastonschools.org>

FYI--

----- Forwarded message -----

From: **Heather Rubbo** <hrubbo@rsd6.org>

Date: Fri, Jan 20, 2017 at 10:13 AM

Subject: Wamogo Acceptances

To: Steve Malo <smalo@thomastonschools.org>

Good morning Steve,

Letters were put in the mail yesterday, so students should be receiving them soon. I just wanted to let you know the status of the Thomaston students that applied to Wamogo:

Accepted

Student A

Student B

Student C

Student D

Student E

Wait List

Student 1
Student 2
Student 3
Student 4

While we would have gladly accepted more students from Thomaston, we are restricted by your town on the number we are allowed to accept. We have been talking with the business manager to see if there is any possibility of accepting more this year. If we get the go ahead to accept more students, we will contact students on the wait list.

*Heather Rubbo
 Ag Ed Administrative Assistant
 Wamogo High School
 98 Wamogo Road
 Litchfield, CT 06759
 (860)567-6649
 hrubbo@rsd6.org*

Preparing all students for learning, living and achieving.

Regional School District No. 6 does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following people have been designated to handle inquiries regarding the non-discrimination policies:

Title IX – Contact

Debbie DeLisle

98 Wamogo Road, Litchfield, CT 06759

860-567-6656

EXHIBIT E



AGRICULTURAL SCIENCE & TECHNOLOGY CENTER

Wamogo Regional High School
98 Wamogo Road
Litchfield, CT 06759
Tel 860 567 6649 • Fax 860 567 7428

March 21, 2017

Ms. Francine Coss
158 Main Street
Thomaston, CT 06787

Dear Ms. Coss,

We are pleased to send you a finalized list of the students that have accepted a position in the Wamogo Agricultural Science and Technology Program from your district:

Student A
Student B
Student C
Student D
Student E

The wait list includes: Student 1 Student 2 Student 3 and Student 4

Deb Foley, our Director of Special Services, must be notified of any year end PPTs that are scheduled for any of these students so that she might attend. We feel this will provide a smooth transition to Wamogo High School. The number for Special Services is 860-567-6642 and Liz Carlson will set appointments for Mrs. Foley.

Sincerely,

Charles Rowland
Director

Preparing all students for learning, living and achieving.

Regional School District No. 6 does not discriminate on the basis of race, color, national origin, sex, disability, or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following people have been designated to handle inquiries regarding the non-discrimination policies:

Title IX Contact
Debbie DeLisle
98 Wamogo Road, Litchfield, CT 06759
860-567-6656

Section 504 Contact
Deb Foley
98 Wamogo Road, Litchfield, CT 06759
860-567-6642

EXHIBIT F



Kristin Thornton <kthornton@thomastonschools.org>

Roster of Thomaston Students

Barbara Hart <bhart@rsd6.org>
To: Kristin Thornton <kthornton@thomastonschools.org>

Mon, Jul 17, 2017 at 12:32 PM

Hello,

Below is the roster of Thomaston residents who plan to attend Wamogo High School. This list is subject to change as it is early in the summer. Thank you,
Barb

Student A	9	[Redacted]	Thomaston	Thomaston = 16
Student 1	9	[Redacted]	Thomaston	
Student B	9	[Redacted]	Thomaston	
Student C	9	[Redacted]	Thomaston	
Student D	9	[Redacted]	Thomaston	
Student E	9	[Redacted]	Thomaston	
[Redacted]	10	[Redacted]	Thomaston	
[Redacted]	10	[Redacted]	Thomaston	
[Redacted]	10	[Redacted]	Thomaston	
[Redacted]	10	[Redacted]	Thomaston	
[Redacted]	10	[Redacted]	Thomaston	
[Redacted]	11	[Redacted]	Thomaston	
[Redacted]	11	[Redacted]	Thomaston	
[Redacted]	11	[Redacted]	Thomaston	
[Redacted]	11	[Redacted]	Thomaston	
[Redacted]	12	[Redacted]	Thomaston	
[Redacted]	12	[Redacted]	Thomaston	
[Redacted]	12	[Redacted]	Thomaston	

On Wed. Jul 12, 2017 at 1:48 PM, Kristin Thornton <kthornton@thomastonschools.org> wrote:
[Quoted text hidden]

Barbara A. Hart
Administrative Assistant
Wamogo Regional High School
School Counseling Department
860-567-6646 ~ bhart@rsd6.org

[Quoted text hidden]

EXHIBIT G

Wamogo Regional High School

School Counseling Office

98 Wamogo Road

Litchfield, CT 06759

www.rsds.org

PHONE: (860) 567.6646

FAX: (860) 567.6651

RECEIVED
AUG 22 2017
T.H.S.

REQUEST FOR RECORDS

STUDENT: **Student 2** PRESENT GRADE: 9 DATE: 8-13-17

CURRENT SCHOOL NAME/ADDRESS: Thomaston High School

185 Branch Rd Thomaston, CT 06787 TEL: 860-283-3030

COUNSELOR'S NAME: Mr. Maul TEL: 860-283-3030
X 14 313

PARENT/GUARDIAN: [REDACTED]

CURRENT ADDRESS: [REDACTED]

TELEPHONE: (HOME) [REDACTED] (DAY #) [REDACTED]

NEW ADDRESS: _____

NEW TELEPHONE: (HOME) _____ (DAY #) _____

PLEASE FORWARD THE RECORDS REQUESTED AS SOON AS POSSIBLE TO :

**BARBARA HART, ADMIN. ASSISTANT,
SCHOOL COUNSELING OFFICE
WAMOGO REGIONAL HIGH SCHOOL
98 WAMOGO ROAD; LITCHFIELD, CT 06759**

X	TRANSCRIPT AND CUMULATIVE RECORD DATA
X	STANDARDIZED TEST SCORES
X	ORIGINAL HEALTH RECORDS
X	SPECIAL EDUCATION RECORDS- IEP, PPT MINUTES, 504 PLAN, PSYCHOLOGICAL AND EDUCATIONAL TESTING
X	STUDENT SUCCESS PLAN (SSP)

I GIVE PERMISSION FOR THE ABOVE INFORMATION TO BE RELEASED TO WAMOGO REGIONAL HIGH SCHOOL.

[REDACTED SIGNATURE]

SIGNATURE OF PARENT/GUARDIAN

8-13-17

DATE

Page: 1
RECEIVED
AUG 22 2017
283-3031 H.S.

Wamogo Regional High School

School Counseling Office
98 Wamogo Road
Litchfield, CT 06759
www.v.rsd3.org

PHONE (860) 567 6016

FAX: (860) 567 6051

REQUEST FOR RECORDS

Student 4

STUDENT: _____ PRESENT GRADE: 9th DATE: 8-14-17

CURRENT SCHOOL NAME/ADDRESS: Thomaston High School
185 Branen Rd Thomaston Ct TEL: 860 283-3050

COUNSELOR'S NAME: Steve Malp TEL: Ext 14313

PARENT/GUARDIAN: _____

CURRENT ADDRESS: _____

TELEPHONE: (HOME) _____ (DAY #) _____

NEW ADDRESS: N/A

NEW TELEPHONE: (HOME) N/A (DAY #) ~~XXXX~~

PLEASE FORWARD THE RECORDS REQUESTED AS SOON AS POSSIBLE TO:

BARBARA HART, ADMIN. ASSISTANT,
SCHOOL COUNSELING OFFICE
WAMOGO REGIONAL HIGH SCHOOL
98 WAMOGO ROAD; LITCHFIELD, CT 06759

~~FAX 860-567-6051~~

8/15/17 #

X	TRANSCRIPT AND CUMULATIVE RECORD DATA
X	STANDARDIZED TEST SCORES
X	ORIGINAL HEALTH RECORDS
X	SPECIAL EDUCATION RECORDS- IEP, PPT MINUTES, 504 PLAN, PSYCHOLOGICAL AND EDUCATIONAL TESTING
X	STUDENT SUCCESS PLAN (SSP)

I GIVE PER _____ RELEASED TO WAMOGO REGIONAL HIGH SCHOOL.

8-14-17
DATE

EXHIBIT H



Kristin Thornton <kthornton@thomastonschools.org>

Thomaston students attending WAMOGO

1 message

Kristin Thornton <kthornton@thomastonschools.org>

Tue, Aug 22, 2017 at 11:43 AM

To: cescobar@rsd6.org

Hi Chris,

It was so nice chatting with you on the phone earlier. I look forward to working with you and don't believe anything my sister-n-law tells you. :)

Please see the attached documents regarding Thomaston students attending WAMOGO. The first is an email with the list of accepted students. The second file contains a letter we received back in March, an email from Barbara Hart, and the two request for records.

Thank you and let me know if you have any questions.

Kristin

--

PLEASE NOTE THE CHANGE OF ADDRESS/TELEPHONE NUMBER:**Kristin D. Thornton**

Executive Secretary to the Superintendent of Schools
Thomaston Public Schools
185 Branch Road
Thomaston, CT 06787
860-283-3053
860-283-3096 - fax

CONFIDENTIALITY NOTICE: This e-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information or otherwise protected by law. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail.

2 attachments

 **Wamogo Acceptance Email.pdf**
51K

 **DOC008.pdf**
109K

EXHIBIT I

Regional School District No. 6
98 WAMOGO ROAD • LITCHFIELD, CT 06759-3204 • (860) 567-7400
SERVING THE TOWNS OF WARREN, MORRIS AND GOSHEN

October 24, 2017

Ms. Francine Coss
 Superintendent
 Thomaston Public Schools
 185 Branch Rd.
 Thomaston, CT 06787

Dear Ms. Coss

As of October 1, 2017, the following students from Thomaston Public Schools were enrolled in the Agriculture Science and Technology Education Program at WAMOGO

Name	Grade	Sending Town	2017-2018 Tuition
STUDENT A	9	Thomaston	\$ 6,823.00
STUDENT 1	9	Thomaston	\$ 6,823.00
STUDENT B	9	Thomaston	\$ 6,823.00
STUDENT C	9	Thomaston	\$ 6,823.00
STUDENT D	9	Thomaston	\$ 6,823.00
STUDENT E	9	Thomaston	\$ 6,823.00
STUDENT 2	9	Thomaston	\$ -
STUDENT 4	9	Thomaston	\$ -
	10	Thomaston	\$ 6,823.00
	10	Thomaston	\$ 6,823.00
	10	Thomaston	\$ 6,823.00
	10	Thomaston	\$ 6,823.00
STUDENT 3	10	Thomaston	\$ -
	11	Thomaston	\$ 6,823.00
	11	Thomaston	\$ 6,823.00
	11	Thomaston	\$ 6,823.00
	11	Thomaston	\$ 6,823.00
	12	Thomaston	\$ 6,823.00
	12	Thomaston	\$ 6,823.00
<i>Thomaston Total Tuition</i>			\$ 122,814.00
50% Due November 22			\$ 61,407.00

Region 6 has been informed by the Connecticut State Department of Education that without a current state budget that a tuition rate has not been finalized for 2017-2018 school year. Therefore, Region 6 is issuing partial invoices calculated at the 2016-2017 rate of \$6,823 with 50% due by November 22, 2017.

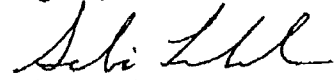
Partial Invoice

18 students x \$6,823 = \$ 122,814

50% Balance Due by November 22, 2017 = \$ 61,407

Please understand that this rate is subject to change based on the final state budget. Our expectation is to issue a final invoice by January 15, 2018, with final payments due in February. Please contact Principal Loveland at 860-567-7410.

Regards,



Sabin Loveland

Principal, WAMOGO Regional High School



Chris Brittain

Department Chair, Wamogo ASTE

EXHIBIT J

Memorandum of Understanding (MOU)

This Memorandum of Understanding (MOU) sets forth the terms of understanding between Regional School District No. 6 (Region 6) and Regional School District No. 10 (Region 10) for the purpose of mutually agreeing upon the number of students Region 10 will send to the Wamogo Agricultural Science and Technology Education program and the number of students Region 6 will use to calculate subsequent minimum enrollment from Region 10.

Whereas, Region 10 provides opportunities for its students to enroll in the Wamogo Agricultural Science and Technology Education program ("Wamogo");

And, Whereas Region 10 has agreed to send 6 additional students on a tuition basis beginning with the 2015-2016 school year, as long as these students are not counted towards Region 10's three-year average number of required students during the 2015-16 school year or in any subsequent school year in which they attend Wamogo;

Now, Therefore the parties agree that the six additional students will not be counted toward the three year average enrollment and, for the purpose of calculating subsequent minimal enrollments, the parties agree that the average number of students enrolled from Region 10 will be as follows:

2015-2016

4 - 9th graders

13 - All grades

2014-2015

1 - 9th grader

13 - All grades

2013-2014

5 - 9th graders

12 - All grades

This MOU shall be in effect upon the signature of REGION 6 and REGION 10's authorized officials.

REGION 6 and REGION 10 indicate agreement with this MOU by their signatures.

Signatures and dates

Region 6



Region 10


_____ 9/25/15