



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

Deborah A. Gist
Commissioner

December 2, 2010

Re: Recent Amendments to Statutes Governing Education Collaboratives

Dear Colleagues:

The Department of Elementary and Secondary Education has received several inquiries regarding the impact of recently enacted legislation (2010—H 7668 Substitute A, As Amended) that, in pertinent part, modifies appointment criteria for membership of the governing boards of regional collaboratives.

We note that this new legislation, which amends Chapter 3.1 of Title 16 (Cooperative Service Among School Districts), defines the term “collaborative,” “to refer to collaboratives established pursuant to this chapter....” From this language we conclude that this new legislation was intended to apply to all regional collaboratives, including those that have been previously established by and through Chapter 3.1 of Title 16. We therefore conclude that the following statutory amendment does apply to the governing board of the East Bay Educational Collaborative as of December 31, 2010:

16-3.1-18. Board of directors. -- *Each educational collaborative’s board of directors will set policies and programs consistent with the aims and intents of this legislation for approval by the department of education and developed in conjunction with educational collaborative staff. **Each participating school committee will appoint one member to the respective governing board.** The board of directors will include an odd number of members. In the case of educational collaborative with an even number of participating school districts, regional school districts may appoint two (2) members. School committees may appoint anyone they choose to the board of directors from the membership. (Emphasis added).*

RIGL § 16-3.1-18, quoted above, is a law of general application in regard to all collaboratives authorized by Chapter 16-3.1. However, the bill in question, 2010—H 7668 Substitute A, as Amended, does not explicitly repeal the five sections of Chapter 16-3.1 that govern the

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membership of the governing boards of the respective authorized collaboratives: Newport County (RIGL § 16-3.1-7); Northern Rhode Island (RIGL § 16-3.1-8); Southern Rhode Island (RIGL § 16-3.1-9); West Bay (RIGL § 16-3.1-9.1); and East Bay (RIGL § 16-3.1-10). Each of these five statutes contains essentially identical language, which reads in pertinent part as follows:

****The various school committees may assign and delegate to their respective school committee chairs or designee or superintendents of schools or designee, acting as a regional board of directors, any duties, responsibilities, and powers that the committees may deem necessary for the conduct, administration, and management of the [respective] education collaborative.*

Accordingly, the new language of § 16-3.1-18 must be read in concert with the above-quoted existing language of sections 16-3.1-7, 16-3.1-8, 16-3.1-9, 16-3.1-9.1, and 16-3.1-10.

As recently as this year, the Rhode Island Supreme Court has clarified that statutory interpretation requires that every word of a statute must be given its plain meaning, and that, in the case of an apparent conflict between two statutes, the doctrine of *in pari materia* (Latin for "upon the same subject matter) shall govern. Statutes *in pari materia* must be construed "in a manner that attempts to harmonize them and that is consistent with their general objective scope." In re Kent County Water Authority Change Rate Schedules, 996 A.2d 123,130 (R.I. 2010). Further, our Supreme Court has consistently held that it will assume that "the Legislature intended statutes relating to the same subject matter be construed together to be consistent and to effectuate the policy of the law." State v. Timms, 505 A.2d 1132, 1135 (R.I. 1986)

In the current instance, it is difficult to harmonize newly enacted § 16-3.1-18 with the *existing language of sections* 16-3.1-7, 16-3.1-8, 16-3.1-9, 16-3.1-9.1, and 16-3.1-10. One aspect that § 16-3.1-18 does clarify is the need for there to be an explicit delegation of authority from the school committee to the member of the collaborative board. The question of whether or not that delegation of authority must be made only to a member of the school committee, or whether it can be made to the superintendent as designee, cannot be harmonized between these two distinctly different statutory schemes.

The general rule of statutory construction, as set forth at RIGL § 43-3-26, clearly provides that when a statute of general application conflicts with a statute that specifically deals with a special subject matter, and when the two statutes cannot be construed harmoniously together, the special statute prevails over the statute of general application. Whitehouse v. Moran, 808 A.2d 626, 629 (R.I. 2002); RIGL § 43-3-26. Each of the five aforementioned statutes that pre-existed the enactment of § 16-3.1-18 refers to a specific collaborative. Section 16-3.1-18 does not refer to any specific collaborative and therefore should be considered to be a law of

general application. Given that House Bill 2010—H 7668 Substitute A, as Amended, does not explicitly repeal those pre-existing sections, those sections must be given full force and effect. The fact that sections 16-3.1-7, 16-3.1-8, 16-3.1-9, 16-3.1-9.1, and 16-3.1-10 are all statutes of specific application, means that each must prevail over the statute of general application, but only in the strictest sense that there is an actual conflict.

Accordingly, I find that superintendents in the Northern, Southern, Newport County, West Bay, and East Bay collaboratives remain eligible to be appointed as designees of their school committees to serve on the boards of their respective collaborative board of directors. I further emphasize that the identification of the school committee's designee, i.e., whether it is the superintendent or member of the school committee, is solely a decision for the respective school committee.

Please take note, of course, that legal opinion letters issued by the Commissioner are not binding in contested cases that may be brought before the Commissioner. Jennings v. Exeter-West Greenwich Regional School Committee, 116 R.I. 90 (1976). If the Department can be of any further help concerning this issue, please let me know.

Very truly yours,



Deborah A. Gist
Commissioner