



Ken Wagner, Ph.D.
Commissioner

State of Rhode Island and Providence Plantations

DEPARTMENT OF EDUCATION
Shepard Building
255 Westminster Street
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December 21, 2017

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Re: Request for Advisory Opinion: Alternative Learning Plans for students attending charter public schools and career and technical schools

Dear Ms. Bejma:

This letter is in response to your request for an advisory opinion asking for clarification on whether the LEA of residence or the charter school, mayoral academy¹ or career and technical education (“CTE”) school that a student attends is responsible for:

- determining whether a request for waiver of compulsory attendance and development of an alternative learning plan pursuant to Rhode Island Department of Elementary and Secondary Education’s (RIDE) “Implementation Requirements” of RIGL § 16-19-1(b) is appropriate;
- granting a waiver and approving an alternative learning plan pursuant to RIGL § 16-19-1(b);
- monitoring compliance with the alternative learning plan.

In considering this response to your questions, the Commissioner is authorized to make informal interpretations of school law.² In this context, interpretations are based exclusively on the facts provided in the request and are non-binding in the event a dispute is subsequently brought for adjudication and the same, or substantially similar, issues are raised.

Students attending public schools of “choice” (including charter public schools and out-of-district CTE programs) have selected their specific school and program from an array of educational options. Such students would likely seek a waiver of attendance only when

¹ Since “charter public schools” include mayoral academies under R.I.G.L. 16-77-2.1(4) subsequent references in this letter to charter public schools will include mayoral academies as well.

² RIGL § 16-60-6(9)(viii)

the obstacle to their regular attendance at school was due to extenuating circumstances. These circumstances should first be addressed through collaboration and problem-solving by guidance counselors or similar staff at the public school of choice in conjunction with the student and his/her family, rather than submitting an application for waiver of compulsory attendance. Additionally, the "Implementation Requirements Compulsory Attendance Policy" ("Implementation Requirements") developed by RIDE indicate that before an alternative learning plan ("ALP") may be considered as an option for a student, all available in-school resources and supports should be provided and in-school alternatives exhausted. Thus, it seems the factual situation described in the request would not arise often, and when it did, the public school of choice would implement and exhaust other solutions first.

Your letter states that, according to the RIDE website, charter public schools and "career and technical schools" are LEAs "in their own right." This statement is correct as to Rhode Island charter public schools but not for CTE "schools."³ For CTE schools, the district is the LEA and the district operates a CTE program, whether located at a freestanding facility, at a comprehensive secondary school, or elsewhere. The following discussion clarifies LEA responsibilities for students seeking attendance waivers.

RIGL § 16-19-1(b) does not distinguish between situations when a student seeking a waiver of attendance attends a charter public school or out-of-district CTE program and when a student attends a high school in the district of residence. The Implementation Requirements⁴ also do not make such a distinction. The Implementation Requirements set forth a sequence of steps to be followed at the school and district level when an ALP is requested. Your request focuses on the various steps involved in the process as follows:

(1) (a) Responsibility for determining the appropriateness of a request for a waiver of compulsory attendance requirements:

In accordance with the Implementation Requirements, the superintendent or chief administrator of the LEA that operates the public school of choice where the student is enrolled and attending would make the determination regarding the appropriateness of the waiver. The superintendent or chief administrator of the LEA that operates the public school of choice may delegate responsibility to other staff (e.g., a guidance counselor) to inform his or her determination.

³ If you will provide me with the specific information as to where on the RIDE website career and technical schools are described as LEA's in their own right, I will have this information corrected.

⁴ A guidance document prepared by RIDE and updated August 1, 2013.

(b) Responsibility for development of an alternative learning plan:

State law specifies that ALPs should be developed “in consultation with the pupil, a school guidance counselor, the school principal, and at least one parent or guardian of the pupil.” RIGL § 16-19-1(b)(2). This team responsible for development of the ALP should be composed of school staff from the public school of choice where the student is enrolled and attending.

(2) Responsibility for granting a waiver of attendance and approving an alternative learning plan:

Both statute and the Implementation Requirements designate the Superintendent as the individual who must approve the ALP and grant any waivers to the compulsory attendance requirement under RIGL § 16-19-1(b).

In the current context, the superintendent or chief administrator of the LEA that operates the public school of choice where the student is enrolled and attending would approve the waiver.

For a student attending a CTE program that is under the control of a Local Education Agency (LEA): the superintendent or chief administrator of the LEA administering the CTE program reviews and approves (or disapproves) the plan. If approved, the superintendent or chief administrator grants a waiver of the compulsory attendance requirement. If the plan is not approved, the parent or guardian may appeal the decision to the school committee of the LEA administering the CTE program. If the parent disagrees with the ruling of the school committee, the parent may appeal the decision to the RI Department of Education.

For a student attending a public charter school: Because charter public schools’ organization can vary, the superintendent or chief administrator of the charter should be responsible for reviewing and approving or disapproving the proposed ALP. If approved, the superintendent or chief administrator grants a waiver of the compulsory attendance requirement. If the plan is not approved, the parent or guardian may appeal the decision to the charter school’s governing board. If the parent disagrees with the ruling of the charter school’s governing board, they may appeal the decision to the RI Department of Education.

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(3) Responsibility for monitoring compliance with the alternative learning plan:

In the current context, the superintendent or chief administrator of the LEA that operates the public school of choice where the student is enrolled and attending is responsible for monitoring compliance with the alternative learning plan.

If those implementing the plan do not comply with the plan, or if it is unsuccessful, the superintendent or chief administrator of the LEA responsible for monitoring compliance with the alternative learning plan must take steps to enforce the compulsory attendance law or institute the protocols required for withdrawal under RIGL § 16-67.1-3.

RIDE's goal is to work with Rhode Island school staff and districts to ensure that all students graduate from high school prepared for postsecondary education, work, and life. For students who require a waiver of attendance and development of an ALP, we will work with school and district staff to ensure that such plans are successfully completed.

Very Truly Yours,



Ken Wagner, Ph.D.
Commissioner of Education

KW/crb