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Commissioner

State of Rhode Island and Providence Plantations

DEPARTMENT OF EDUCATION

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By electronic and first class mail

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Matthew T. Oliverio, Esq.
55 Dorrance Street, Suite 400
Providence, Rhode Island 02903

Re: East Greenwich Field Trip Policy (No. 2196)

Dear Attorney Oliverio:

I write in response to your September 26, 2018 request for guidance with respect to the funding of field trips.

In short, there are three (3) permissible ways to fund trips:

- (1) Districts may budget funds for trips, so long as the trip is part of the instructional program and all students have the same ability to attend;
- (2) Fundraising for trips is permissible to supplement district budgeted funds, so long as individual students do not have mandated fundraising targets that must be met as a requirement for participation; and
- (3) Individuals may be charged fees for a trip, but only for trips that are not organized by the district using district resources, including district-funded staff time.

In addition, districts should have local policies and procedures in place to guide local actions consistent with any and all of these options.

I hope the above has been helpful, and please be advised that this is a "guidance document" under R.I. Gen. Laws § 42-35-2.12. See attached for a more detailed appendix, which gives some legal context for this guidance.

Very truly yours,

Ken Wagner, Ph.D.
Commissioner of Education

KW/crb

w/ enclosure: Appendix

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Appendix

The General Assembly has empowered school committees to “adopt a school budget to submit to the local appropriating authority.” R.I. Gen. Laws § 16-2-9(a)(9). Under this statutory authority, funds budgeted by school districts may be used for field trips that are part of the educational experience. However, the use of school resources for trips that do not meet Rhode Island’s Basic Education Program Regulations (the “BEP”), definition of a “quality expanded learning opportunity” is inappropriate. See BEP at § 200-RICR-20-10-1.3.2(H).

R.I. Gen. Laws Chapter 16-89 expressly provides that it was intended “[t]o enable and allow school districts, school departments, and school committees to accept grants, gifts and donations.” See R.I. Gen. Laws § 16-89-3(1); see also R.I. Gen. Laws § 16-38-6(c) (recognizing a school committee’s right to engage in “approved fundraising activity”).

Additionally, the Commissioner in *Opinion Letter to Thomas Mezzanotte*, made the point that these statutory provisions were a potential source of private funds that “could be employed to greater effect to secure additional support for school sports,” see *Id.* at 4, despite the fact that in most cases, school sports are a prominent item in school budgets. This would allow schools to participate in fundraising activities and/or accept gifts to defray costs since public funds cannot be used to support activities that have no relation to the classroom curricula or program of studies. Therefore, a district can utilize outside fundraising activities to fund a field trip.

However, requiring a student to meet an individual fundraising goal would be akin to assessing an individual fee. By requiring students to meet a mandated fundraising goal or target to attend a field trip, the district would, in essence, be charging an impermissible fee to each student contrary to R.I. Gen. Laws § 16-38-6(a), as discussed above.

Funding district organized field trips from fees charged to individual public school students is unlawful in Rhode Island both due to: (A) a specific statutory prohibition; and (B) a school committee’s lack of authority to impose such charges.

(A) The plain language of R.I. Gen. Laws § 16-38-6(a) provides that:

No public school official or public school employee shall, *for any purpose*, solicit or exact from any pupil in any public school *any contribution or gift of money* or any article of value, or any pledge to contribute any money or article of value.

Id. (emphasis added); and

(B) (i) the Commissioner noted in *Mezzanotte* that “[a] reading of the General Laws shows that, except in a few very special cases, *the General Assembly has not granted school committees the authority to charge fees for school services.*” *Id.* at 2; and more recently;

- (ii) the Superior Court held in *Giannini v. Council on Elementary and Secondary Education*, C.A. No. PC 2014-5240 (Providence County Superior Court, March 30, 2016) (Carnes, J.), that school committees are prohibited from charging “tuition” for acquiring credits that constitute a “core element of education in the school district’s curriculum.” See *Id.* at 11-12, 19-20, citing 1868 R.I. Pub. Laws 518, §1.

In *Giannini*, the Court’s emphasis upon the fact that summer school courses providing academic credit were “a core element of education,” see *id.*, slip op. at 17-20, is suggestive of the approach adopted by a majority of the states. See Rausch, *Pay-to-Play: A Risky and Largely Unregulated Solution to Save High School Athletic Programs from Elimination*, 39 Suffolk U. L. Rev. 583, 595, (2006) (“[m]ost states consider extra-curricular activities outside the curriculum, and therefore, subject to fees, while required or credit-worthy courses and activities are not”).

However, unlike most states, “a school-based program of extra-curricular activities is a required part of the BEP, see *id.*, 200-RICR-20-10-1.3.2(H), and thus, as noted, the Commissioner has held that certain extra-curricular activities, such as school athletics, are included as part of the “quality expanded learning opportunity” and “school-based program” contemplated by the BEP. See *Mezzanotte, supra*, at 3-4.

If a field trip did not fall within the BEP’s rather expansive definition of a “quality expanded learning opportunity,” it would not be an appropriate use of school resources, and in any event, charging a student a fee under such circumstances would run afoul of the statutory prohibition in R.I. Gen. Laws § 16-38-6(a) quoted above.

Case law and statutes are silent with respect to privately-sponsored trips that are not district organized field trips. There appears to be no prohibition against parents or teachers on their own time, and with their own resources, from organizing trips for educational enhancement that rely on fees from individual students for their funding. Such private trips must be planned for, chaperoned, funded, and held entirely outside the school or district’s purview. Additionally, private trips must not occur during the school calendar or, if they do, must be considered, consistent with district policy, an unexcused absence for students and personal time off for educators.