



Ken Wagner, Ph.D.  
Commissioner

State of Rhode Island and Providence Plantations  
**DEPARTMENT OF EDUCATION**  
Shepard Building  
255 Westminster Street  
Providence, Rhode Island 02903-3400

October 31, 2018

By electronic and first class mail

Ms. Caroline Mark  
Chair, East Greenwich School Committee

Dr. Victor Mercurio  
Superintendent, East Greenwich School Department  
111 Peirce Street  
East Greenwich, RI 02818  
[Vmercurio@egsd.net](mailto:Vmercurio@egsd.net)

Dear Ms. Mark and Dr. Mercurio:

I am writing in response to your October 25, 2018 request for approval of alternatives and/or waivers under RIGL §16-2-21.4.

Your request seeks variances and waiver relief from “state laws and/or RIDE regulatory requirements” regarding (1) School Bus Monitors, (2) Authority to Charge for General Education Transportation and (3) Authority to Charge for Athletic Participation.

Under RIGL §16-21-1(b), school bus monitors are required on all school-bound and home-bound transportation provided to children enrolled in grades kindergarten through five. This is a requirement imposed by state statute and therefore beyond my authority under RIGL §16-2-21.4(a) to consider petitions seeking alternatives and waivers to state regulations. RIGL §16-21-1(b) does authorize the Commissioner to grant variances to the requirement for a school bus monitor “if he or she finds that an alternative plan provides substantially equivalent safety for children.” Your request does not present a safety plan pursuant to RIDE’s variance protocol that would serve as an alternative to the bus monitor requirement.

RIGL §16-21-1(a) requires school committees to provide suitable transportation to students who reside so far from school so as to make regular attendance impractical. Again, this is an obligation imposed by state statute, not regulation. It is part of the duty of Rhode Island school committees to provide children with a public education at public expense.

Public school athletics have been discussed in a series of advisory opinions issued by this office. As stated therein, while school committees may choose to include interscholastic sports as part of the school-based program of extra-curricular activities that is required by Rhode Island’s


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Basic Education Program regulations, parents cannot be assessed fees for athletic participation because the General Assembly has not granted school committees the authority to do so. (see, most recently, November 13, 2015 Advisory Opinion to Stephen Adams, Esq. and Alexander Chiulli, Esq., and August 5, 2009 Advisory Opinion to Thomas Mezzanotte). The permissibility of sports fees therefore is not solely a regulatory matter. It is the lack of statutory authority that proscribes the charging of fees for student participation in interscholastic athletics.

Based on the foregoing, each of the requests for variances and waiver relief made in your joint letter of October 25, 2018 is denied.

If you have any questions regarding this letter, please free to call me.

Sincerely,

  
Ken Wagner, Ph.D.  
Commissioner