

STATE OF RHODE ISLAND
DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION
OFFICE OF THE COMMISSIONER

*In re the Stipulated Request for a Declaratory
Order Pursuant to R.I. Gen. Laws § 42-35-8
by the Warwick School Department*

D.O. 26-003A

I. INTRODUCTION AND PROCEDURAL BACKGROUND

On October 19, 2025, the Warwick Public Schools (“Warwick” or the “Petitioner”) filed a *First Amended Petition for Declaratory Relief and Compensatory Damages* (the “Petition”) in which it alleged that all the parties (including Warwick) have been calculating the amount they charge sending districts for their resident students attending out-of-district career and technical education (“CTE”) career preparation programs based upon an out-of-date formula that was superseded by a statutory amendment that became effective on July 9, 2021. *See Warwick Public Schools v. Barrington Public Schools, et al.*, RIDE No. 25-074A (October 19, 2025).

In the Petition, Warwick is seeking an order declaring that at various times during school years 2021-2022 through 2024-2025, the Respondents – fifteen public and regional school districts throughout the State of Rhode Island (collectively, the “Respondents”) – have either charged Warwick tuition for Warwick students attending their CTE programs in amounts that were in excess of the maximum amount of tuition authorized by statute, or alternatively, paid Warwick less than the statutorily-mandated amount of tuition for their students attending Warwick CTE programs. *See* Petition, Count I at 10-11 and Count II, ¶¶ 121-124 at 11. Warwick also seeks to compel Respondents to pay Warwick the amounts it has allegedly been overcharged and the amounts Respondents allegedly underpaid Warwick. *See id.*, Count II at 11.

In order to expeditiously resolve the matter and to enable all school districts that might be impacted by any decision on the merits of Warwick’s Petition to participate in the resolution of the legal issues raised, counsel for Warwick and for the Respondents agreed to sever Counts I and II of the Petition and to consider Count I seeking declaratory relief as a request for a declaratory order under the state’s Administrative Procedures Act.¹

It was agreed that the requested declaratory order would address the following questions (the “Questions Asked”):

- Question 1:** What is the statutorily prescribed formula for calculating tuition for out-of-district students attending CTE career preparation programs offered by public school districts in Rhode Island? and
- Question 2:** In the event that a school district were to exceed the legally permissible amount of tuition that may be charged, are there any valid defenses to an action to recover amounts overcharged during school years 2021-222 through 2024-2025?

A Notice and Order Regarding the Request for a Declaratory Order Concerning the Calculation of Tuition for Out-of-District CTE Programs (the “Notice and Order”) that included the Questions Asked was then entered on December 19, 2025, and copies of the Notice and Order were provided by electronic mail to counsel for the parties here as well as the superintendent of each and every public school district in Rhode Island whose district was not named as a party, as well as to their legal counsel. All interested parties were afforded up to Tuesday, February 17, 2026, to file legal memoranda responding to the Questions Raised, and any reply memoranda was required to be filed by the close of business on Thursday, March 19, 2026.

¹ Pursuant to R.I. Gen. Laws § 42-35-8 “[a] person may petition an agency for a declaratory order that interprets or applies a statute administered by the agency or states whether, or in what manner, a rule, guidance document, or order issued by the agency applies to the petitioner” and “issue a declaratory order in response to the petition, decline to issue the order, or schedule the matter for further consideration.” *Id.* at (a), (c); *see generally* Regulations Governing Declaratory Order Petitions, 200-RICR-30-15-2, *et. seq.*

The statutory amendment that became effective in July of 2021 and is the center of the controversy is located at R.I. Gen. Laws § 16-45-6.1(g) and provides as follows:

(1) Students requesting access to state CTE board-approved career preparation programs outside their established school transportation region may enroll in such programs that are not substantially similar to a program in their home district. In such event, with respect to transportation costs, the resident's local education agency shall only be responsible for paying the resident district's average per pupil expenditure for student transportation for all students in the district. The receiving district shall pay any remaining balance due for transportation costs associated with the particular student.

(2) The sending district shall pay *the average of the per-pupil expenditure* of the receiving district and sending district when paying out-of-district tuitions for students in CTE programs.

(3) When two or more substantially similar programs are available within a student's transportation district, that student may enroll in the program that is not geographically closest only if the receiving district agrees to pay all the transportation costs to and from the receiving district.

Id. (emphasis added).

II. POSITIONS OF THE PARTIES

Pursuant to the Notice and Order, legal memoranda were submitted on behalf of Warwick, Barrington Public Schools ("Barrington"), East Greenwich Public Schools ("East Greenwich"), East Providence Public Schools ("East Providence"), Exeter West Greenwich School District ("EWG"), North Kingstown School Department ("North Kingstown"), South Kingstown School Department ("South Kingstown"), West Warwick Public Schools ("West Warwick"), Foster Gloucester Regional School District ("Foster Gloucester"), Cumberland School Department ("Cumberland") and the Narragansett School System ("Narragansett").

1. Warwick

Warwick cites to R.I. Gen. Laws § 16-45-6.1(g)(2) and argues that in "[t]he words 'the sending district *shall* pay' the Legislature intended the tuition obligation for the sending public

school district to be a mandatory statutory obligation.” Warwick’s Memorandum dated February 17, 2026 (“Warwick’s Mem.”) at 4 (citing *Bronhard v. Thayer Street District Management Authority*, 326 A.3d 178 (2024) (noting that the terms “shall” and “will” create mandatory obligations)). Warwick emphasizes that “when the language of a statute is clear and unambiguous, this Court must interpret the statute literally and must give the words of the statute their plain and ordinary meanings.” *Id.* at 3 (citing *Ryan v. City of Providence*, 11 A.3d 68, 70-71 (R.I. 2011) (quoting *Accent Store Design, Inc. v. Marathon House, Inc.*, 674 A.2d 1223, 1226 (R.I. 1996))).

To illustrate the operation of § 16-45-6.1(g)(2), Warwick states that:

the average per-pupil rate for WPS for the 2023-2024 school year was \$19,153 for a non-poverty qualifying student while the Exeter-West Greenwich (hereinafter ‘EWG’) average non-poverty per-pupil rate was \$18,211 for that same period. A plain reading of § 16-45-6.1(g)(2) requires that Warwick pay EWG \$18,682 for any Warwick student to attending an out-of-district CTE placement in EWG for the year.

Id. at 4-5.

2. Barrington, East Greenwich, East Providence, EWG, North Kingstown, South Kingstown and West Warwick

The above Respondents make the point that:

when interpreting a statute, this Honorable Court must ‘consider the entire statute as a whole; [and] individual sections must be considered in the context of the entire statutory scheme, not as if each section were independent of all other sections.’ *Sorenson v. Colibri Corporation*, 650 A.2d 125, 128 (R.I. 1994). Moreover, “[i]f a mechanical application of a statutory definition produces an absurd result or defeats legislative intent, [the] court will look beyond mere semantics and give effect to the purpose of the act.” *Id.* at 129 (internal quotation omitted).

Respondents’ Memorandum dated February 17, 2026 (“Respondents’ Mem.”) at 3-4. They then argue that:

[w]hile the provision outlined in Rhode Island General Laws 16-45-6.1 (g)(2) appears clear and unambiguous if read in isolation, its’ awkward placement by the Legislature in the middle of subsection (g), which is focused primarily on transportation costs for

CTE students traveling within or outside of their established school's transportation region/district, minimally creates an unneeded layer of confusion and ambiguity. Whatever the reason, none of the Respondents, nor the Petitioner, have previously interpreted and/or applied the statute in the revised manner the Petitioner now seeks to enforce it.

Id. In addition, as will be discussed, Respondent's request that two additional questions be answered. *See infra* at 12.

Respondents also raise various affirmative defenses to Warwick's claim, including mutual misinterpretation and/or miscalculation, laches, undue prejudice, unclean hands and waiver. *See id.* at 5-9; Mem. of Cumberland at 11; Mem. of Foster-Glocester at 2-4; *see also* Warwick's Reply Memorandum dated April 2, 2026, at 2-9. However, for reasons that will become obvious, these arguments have been rendered moot and need not be addressed.

3. Foster Glocester

Foster Glocester relies solely upon various equitable defenses, *see* Brief of Foster-Glocester dated February 17, 2026, at 2-4, however, as noted, these defenses have been rendered moot for reasons that will be discussed.

4. Cumberland and Narragansett

Commenting upon R.I. Gen. Laws § 16-45-6.1(g)(2), Cumberland and Narragansett suggest that the provision:

... is situated within subsection (g) and directly below the above discussed paragraph that addresses transportation costs only for those students who attend a CTE program 'outside their established school transportation region.' *See* R.I. Gen. Laws § 16-45-6.1(g)(1) (emphasis added). Is the reader meant to conclude that the tuition payment methodology found in subsection (2) applies just to CTE programs that are outside the student's established transportation region? Or, is subsection (2) more general, applying to any CTE program in the state that is not the student's resident school department?

Some may argue that the location of subsection (g)(2) is not relevant – that it stands on its own within subsection (g) to establish one tuition methodology – and, therefore, it is unambiguous. From our perspective, even if this subsection is

ambiguous because of its location within the statute, the only reasonable way to interpret it is that it establishes the tuition for any student attending a CTE program outside of their resident school department.

Brief of Cumberland and Narragansett dated February 17, 2026, at 6-7. They then illustrate how § 16-45-6.1(g)(2) should be applied:

Assume that Warwick is the student's LEA. Fictitious Quahog is the CTE program enrolling the student who resides in Warwick. Warwick's 'average of the per-pupil expenditure' is \$A. Quahog's 'average of the per-pupil expenditure' is \$B. The equation is $(\$A + \$B)/2 = \$C$.

Id. at 7.

Finally, Cumberland and Narragansett raise equitable defenses, *see id.* at 11, which, as noted and as will be discussed, are moot.

III. DISCUSSION

1. The Relevant History Prior to the Amendment of R.I. Gen. Laws § 16-45-6.1 in 2021

The Council on Elementary and Secondary Education's *Regulations Governing Career and Technical Education in Rhode Island*, which were originally promulgated on July 1, 2012, provide that RIDE shall have the responsibility for and authority to:

Establish and manage a funding methodology for Career and Technical Education consistent with applicable state statutes and these Regulations that is designed to support the reasonable and necessary costs for the administration and implementation of RIDE- approved career preparation programs . . .

200 RI ADC 20-10-3.3.1(A)(8).

On February 13, 2018, the CTE Funding Working Group,² the CTE Board of Trustees and RIDE issued a "Final Proposal" which included the following:

² The author has been informed that this Working Group included representatives from the Rhode Island School Superintendents Association.

In lieu of a mutually developed local agreement, RIDE-approved CTE programs (receiving districts) shall use the following process to bill the district of residence (sending districts) for enrolling out of district student CTE programs:

1. Local Per Pupil Aid

Receiving districts will be eligible to bill sending districts for local aid in accordance to the process and amounts established for local aid as described in the Education Equity and Property Tax Relief Act established in Rhode Island General Law 16-7.2-5. As is permitted by the Met and Davies and charter schools, the amount of local per pupil aid for sending districts will also take into account a reduction of the greater of 7% in the local aid contribution or the per-pupil value of the district's unique or fixed costs, as described in 16-7.2-5(c).

In the case that a sending district has a state and local state per pupil share 25% higher than the state average, the receiving district will bill an amount not to exceed 125% of the average of the state and local share . . .

2. State Per Pupil Aid

Receiving districts will be eligible to bill sending districts for state aid. The state aid amount will be established by methodology outlined in the Education Equity and Property Tax Relief Act established In Rhode Island General Law 16-7.2-5. Unlike the Met, Davies or charter schools the sending district receives the state per pupil for the student. As such, the receiving district will be eligible to bill the sending district quarterly for the state per pupil aid amount. This includes student success factor funding If applicable...

Implementation Date: July 1, 2018. Students who began attending CTE prior to June 30, 2018 will continue to be funded under the previously existing methodology until June 30, 2021.

CTE Funding Working Group (Final Proposal) (February 13, 2018) (emphasis added).

Thus, as of July 1, 2018, receiving districts were to charge districts sending students to their CTE programs an amount equal to their combined *state and local per pupil aid figures* calculated pursuant to the methodology outlined in R.I. Gen. Laws § 16-7.2-5,³ which provides

³ Taking into account a reduction of the greater of 7% in the local aid contribution or the per-pupil value of the district's unique or fixed costs, as described in 16-7.2-5(c), with respect to the local per pupil aid calculation.

that: (a) the *local per-pupil figure* is calculated “by dividing the local appropriation to education from property taxes, net of debt service, and capital projects, as defined in the uniform chart of accounts by the average daily membership for each city and town, pursuant to § 16-7-22, for the reference year.” See § 16-7.2-5(b); and (b) the *state per pupil figure, which is calculated pursuant to § 16-7.2-4.*⁴ And since 2018, the “combined state and local per-pupil aid figures” used as the basis of computing CTE tuition pursuant to the Final Proposal of the CTE Funding Working Group have been provided on RIDE’s website as part of a “CTE Tuition Workbook” on an annual basis.⁵ However, as noted, on July 9, 2021, R.I. Gen. Laws § 16-45-6.1 was amended and subsection (g) was added (quoted *supra* at 2) and became effective.

2. The CTE Funding Working Group’s Final Proposal was Preempted by R.I. Gen. Laws § 16-45-6.1(g) as of July 9, 2021

It is well settled that when the language of a statute is clear and unambiguous, the statute may not be construed or extended, but must be applied literally. *Brier Mfg. Co. v. Norberg*, 377 A.2d 345, 348 (R.I. 1977); *In re Shepard Co.*, 115 R.I. 290, 293-94, 342 A.2d 918, 922 (1975);

⁴ This follows from the fact that § 16-7.2-5(a) provides that “[t]he state share of the permanent foundation education aid . . . shall be calculated using the state-share ratio of the district of residence of the student as set forth in § 16-7.2-4.” *Id.* Section 16-7.2-4 provides, in pertinent part, as follows:

- (a) For each district, the state's share of the foundation education aid calculated pursuant to § 16-7.2-3(a) shall use a calculation that considers a district's revenue-generating capacity and concentration of high-need students. The calculation is the square root of the sum of the state share ratio for the community calculation, pursuant to § 16-7-20, squared plus the district's percentage of students in grades PK-6 in poverty status squared, divided by two.

If this calculation results in a state share ratio that is less than the state share ratio for the community calculated pursuant to § 16-7-20(a) and that district's poverty status percentage as defined in § 16-7.2-3(a)(2) is greater than fifty percent (50%), the state share ratio shall be equal to the state share ratio for the community calculated pursuant to § 16-7-20(a).

- (b) For purposes of determining the state's share, school district student data used in this calculation shall include charter school and state school students. These ratios are used in the permanent foundation education aid formula calculation described in § 16-7.2-5.

Id.

⁵ See CTE Tuition workbook using data used for the FY 2024 funding formula (available at <https://ride.ri.gov/sites/g/files/xkgbur806/files/2023-06/CTE-Tuition-for-FY-24-6-13-23.pdf>).

Andreozzi v. D'Antuono, 113 R.I. 155, 159, 319 A.2d 16, 18 (1974). Moreover, it is axiomatic that a regulation that is in direct and material conflict with a state statute is invalid. *See Amico's Inc. v. Matos*, 789 A.2d 899, 906-907 (R.I. 2002) (Regulation preempted “if it conflicts with a state statute on the same subject.”).

The conclusion of the CTE Funding Working Group’s Final Proposal that “the sending district receives the state per pupil for the student” is in direct and material conflict with R.I. Gen. Laws § 16-45-6.1(g)(2) -- which, as noted, provides that “[t]he sending district shall pay *the average of the per-pupil expenditure of the receiving district and sending district.*” *Id.* (emphasis added). Thus, the Final Proposal of the Working Group has been preempted by statute and was of no legal force or effect as of July 9, 2021. In addition, the suggestion in the February 13, 2018 “Final Proposal” of the Group that LEAs can legally vary the amount billed by agreement in derogation of the statutory mandate also was preempted when the Legislature added (g) to R.I. Gen. Laws § 16-45-6.1.

Therefore, as of July 9, 2021, a school district sending a resident student to an out-of-district CTE is liable to the enrolling, or receiving, district, in an amount equal to the *average* of the “per-pupil expenditures” of the sending and receiving districts. And significantly, aside from the fact that it is the *average* of two figures that is relevant, the figures used prior to the enactment of § 16-45-6.1(g)(2), i.e., the “combined state and local per-pupil aid figures” referenced in the CTE Funding Working Group’s “Final Proposal,” differ materially from “per-pupil expenditure” figures referenced in § 16-45-6.1(g)(2).⁶ The “combined state and local per-pupil aid figures” referenced in the CTE Funding Working Group’s “Final Proposal” are

⁶ Compare the CTE Tuition workbook for FY 2024 (available at <https://ride.ri.gov/sites/g/files/xkgbur806/files/2023-06/CTE-Tuition-for-FY-24-6-13-23.pdf>) with FY 2024 Per Pupil Expenditure calculations (available at <https://ride.ri.gov/sites/g/files/xkgbur806/files/2025-11/FY24%20Per%20Pupil%20Expenditure%20Chart%20-%206.24.25.pdf>).

“established by the methodology outlined in the Education Equity and Property Tax Relief Act established In Rhode Island General Law 16-7.2-5,” *see* CTE Funding Working Group Final Proposal (quoted *supra* at 7-8), whereas the “per-pupil expenditure” figures referenced in § 16-45-6.1(g)(2) (quoted *supra* at 3), are calculated “by dividing the local appropriation to education from property taxes, net of debt service, and capital projects, as defined in the uniform chart of accounts, by the average daily membership for each city and town, pursuant to § 16-7-22, for the reference year.” *See* R.I. Gen. Laws § 16-7.2-5(b).⁷ And it is worth noting that each year RIDE has made the “per-pupil expenditure” figures referenced in § 16-45-6.1(g)(2) available on its website as soon as the figures become available.⁸

Yet, it appears that the amendment to § 16-45-6.1 was ignored and school districts continued to calculate CTE tuition based upon the methodology set forth in the preempted Final Proposal of the CTE Funding Working Group after July 9, 2021. For example, it appears that , since the combined state and local per pupil aid figures for Warwick in Fiscal Year (“FY”) 2024 amounted to \$19,153 for a student not in poverty, and the corresponding figures for East Greenwich amounted to \$15,887 for such a student, Warwick erroneously charged East Greenwich \$15,887 for an East Greenwich student enrolled in a Warwick CTE program, and East Greenwich presumably just as erroneously charged Warwick \$19,153 for such a student enrolled in an East Greenwich CTE program. In fact, for a student not in poverty in FY 2024, Warwick and East Greenwich each should have charged the sending district \$22,734 per student (the average of the respective “per pupil expenditure” figure of Warwick (\$25,526) and of East

⁷ *See* note 6, *supra*.

⁸ *See, e.g., id.*

Greenwich (\$19,942)).⁹ Significantly, *this is actually \$3,581 more than the amount East Greenwich appears to have actually charged Warwick.*

Therefore, the basic factual premise of Warwick’s Complaint is erroneous, and had Count I not been converted by agreement into a request for a declaratory order, the Complaint would have been denied and dismissed. Moreover, all the school districts that filed briefs opposing Warwick’s Petition on equitable grounds made the same basic factual error (and presumably will suddenly find the various equitable defenses they mounted against Warwick’s claim a lot less persuasive).

3. R.I. Gen. Laws § 16-45-6.1(g) is not ambiguous.

Barrington, East Greenwich, East Providence, EWG, North Kingstown, South Kingstown and West Warwick, while conceding that R.I. Gen. Laws § 16-45-6.1 (g)(2) “appears clear and unambiguous if read in isolation” nonetheless suggest it is ambiguous due to “its awkward placement by the Legislature in the middle of subsection (g), which is focused primarily on transportation costs for CTE students.” *See* Respondents’ Mem. at 4.

The argument is unconvincing. The Legislature makes a clear distinction between out-of-district “transportation costs” and out-of-district “tuitions” in § subsections (g)(1) and (g)(2), and refers exclusively to “out-of-district tuitions” in the latter.

Additionally, although Cumberland and Narragansett suggest (without actually concluding) that the tuition payment methodology found in (g)(2) may apply just to CTE programs that are outside a student’s established transportation region, *see* Cumberland and Narragansett Mem. at 6-7, the Legislature illustrates that it knew how to limit the applicability of

⁹ *See id.*

a subsection by specifically referring to “a student’s transportation district” in (g)(3), while making no such limiting reference in (g)(2).

4. Students in Poverty and RIDE Approved Pathway Programs

Finally, as noted, Respondents requested that two additional related questions, Questions 3 and 4, below, be addressed. However, since the questions were not included in the original Questions Asked in the Notice and Order, answers cannot properly be included in the Declaratory Order, below. However, the following answers are provided with the intent that they be considered as a “guidance document” within the meaning of R.I. Gen. Laws § 42-35-1(9).

Question 3: When applying § 16-45-6.1 for calculating tuition for out-of-district students attending CTE programs, should districts apply the so called “combined state and local per-pupil rate” and/or the so called “combined state and local per-pupil, for a student in poverty” in certain circumstances?

Answer 3: The “combined state and local per-pupil, for a student in poverty” is applicable if the student’s “family income is at or below one hundred eighty-five percent (185%) of federal poverty guidelines.” *See* R.I. Gen. Laws § 16-7.2-3(a)(2)(i).

Question 4: To what extent should § 16-45-6.1 apply to school districts setting tuition rates for attendance at a district’s RIDE approved pathway program and is there a legally required or permissible amount of tuition that may be charged?

Answer 4: The applicability of R.I. Gen. Laws § 16-45-6.1 is limited to “state CTE board-approved career preparation programs” and therefore does not apply to RIDE approved pathway programs. Tuition rates for the pathway programs are set by the local school district.

IV. DECLARATORY ORDER

The Questions Asked and the Answers are as follows:

Question 1: What is the statutorily prescribed formula for calculating tuition for out-of-district students attending CTE career preparation programs offered by public school districts in Rhode Island?

Answer 1: Effective as of July 9, 2021, a public school district in Rhode Island sending a resident student to an out-of-district CTE career preparation program is liable to the enrolling, or receiving, district, in an amount equal to the average of the “per-pupil expenditures” of the sending and receiving districts, which figures are calculated “by dividing the local appropriation to education from property taxes, net of debt service, and capital projects, as defined in the uniform chart of accounts, by the average daily membership for each city and town, pursuant to § 16-7-22, for the reference year.”

Question 2: In the event that a school district were to exceed the legally permissible amount of tuition that may be charged, are there any valid defenses to an action to recover amounts overcharged during school years 2021-222 through 2024-2025?

Answer 2: Upon information and belief, during school years 2021-2022 through 2024-2025, Respondents and other districts charged Warwick for Warwick students attending out-of-district CTE programs less than the amount legally authorized as of July 9, 2021, and therefore, Respondents and other districts did not exceed the legally permissible amount of tuition that may be charged Warwick and any questions as to the validity of equitable defenses to overcharging has therefore been rendered moot.

Please be advised R.I. Gen. Laws § 42-35-8(d) provides that this decision “is subject to judicial review for abuse of discretion.”

Entered as a final agency Order this 11th day of June, 2026.


ANGELICA INFANTE-GREEN,
Commissioner


ANTHONY F. COTTONE, ESQ.,
Hearing Officer for the Commissioner