

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

NEWPORT SCHOOL COMMITTEE

v.

PORTSMOUTH SCHOOL COMMITTEE;
MIDDLETOWN SCHOOL COMMITTEE

Decision

Held: Newport is estopped from charging Portsmouth and Middletown additional career and technical student tuition costs related to the 2003-04, 2004-05 and 2005-06 school years.

Date: March 13, 2009

Introduction

This is a request by the Newport School Committee seeking reimbursement from the Portsmouth School Committee and the Middletown School Committee to correct erroneous career and technical education student tuition billings by Newport for the 2003-04, 2004-05 and 2005-06 school years.

Background

Newport is the administering school district for the Newport Area Career and Technical Center (NACTC). The school districts participating in the NACTC include Portsmouth and Middletown. Tuition for participating-district students attending career and technical centers is determined by the school committee for the administering district. Tuition is computed by means of a formula promulgated by the Rhode Island Department of Education. The tuition formula specifically includes academic classes, career and technical classes, and per-pupil non-instructional costs for full-time and part-time students.

The record in this matter shows that for the 2000-01, 2001-02 and 2002-03 school years, Newport's tuition billing differentiated between academic and career and technical rates, and included non-instructional costs pro-rated for part-time students. Neither the rate differentiation nor the non-instructional costs for part-time students appeared in the 2003-04 or 2004-05 NACTC bills.

The 2005-06 tuition rates were discussed at an October 14, 2005 meeting, after which the director of the NACTC sent a letter to the participating districts' superintendents detailing the per-period academic and career and technical rates, as well as the non-instructional costs for full-time students. The letter also stated that "[c]ommunities sending 'part-time' students do not pay any portion of Non-Instructional Cost." [Respondents Exhibit 4].

A review of the director's letter and further inquiry into the tuition bills revealed that Newport had been charging students the higher career and technical tuition rate for academic classes. In November 2005, the NACTC tuition rate was approved for the 2005-06 school year and Newport issued tuition bills for the first term. These bills were later revised to correct the exclusive application of the career and technical tuition rate. The revised bills returned to the differentiated billing previously mentioned for full-time students. The bills for part-time students applied the career and technical rate with no mention of non-instructional costs. A memorandum which outlined Newport's tuition rates and included the completed Department of Education formula also was distributed. While the formula contained non-instructional costs, the memorandum did not refer to the application of those costs to part-time students.

On January 27, 2006, the superintendents and business managers of the NACTC districts met to discuss NACTC student data and cost calculation methods. The overcharging for academic periods for 2003-04, 2004-05 and 2005-06¹ was discussed. It also was revealed that Newport had neglected to bill participating districts for non-instructional costs for part-time students since 2002-03.

In April 2006, Newport granted Portsmouth and Middletown credits against their outstanding 2005-06 tuition balances for the prior years' excess tuition charges. The parties were not able to reach agreement with regard to the unbilled non-instructional costs for part-time students. Newport filed this request in June 2006. Hearings were held and memoranda subsequently filed.

According to Newport's request, if the districts had been charged for non-instructional costs for part-time students as well as credited for the excess instructional charges, Portsmouth would owe \$9,000.46 for 2003-04, have a credit of \$7,703.79 for 2004-05, and owe \$39,902.50 for 2005-06; Middletown would owe \$15,909.71 for 2003-04, \$16,638.93 for 2004-05, and \$34,342.50 for 2005-06.

Positions of the Parties

Newport contends that the state tuition formula clearly provides for the billing of non-instructional costs for part-time students and it logically follows that Newport has the right to correct its billings so that they conform to the state formula. It also is a matter of logic that both errors, not just the academic class excess charge, be subject to correction. Newport asserts that this is merely a case of fixing the mistakes that were discovered when the NACTC tuitions were reviewed.

Portsmouth and Middletown contend that Newport routinely failed to comply with the regulatory requirement that career and technical center budgets be "established by September 1st of the preceding year,"² and that the districts were therefore forced to estimate tuition costs based on the prior year's billings. For that reason, the billings were important because they became the governing criteria for the development of the new fiscal year's budget. While the overcharging for academic classes was clearly an error that ran contrary to all parties' understanding of billing calculations, Newport's exclusion of non-instructional costs for part-time students is different. This was not an error, but a stated practice that was acknowledged by Newport. It was later

¹ Which, for this school year, had recently been corrected.

² Regulations of the Board of Regents Governing the Management and Operation of Area Vocational-Technical Centers in Rhode Island, Section IV, Part D(1).

transformed into an “error” when Newport attempted to offset the reimbursement that was due for the academic class overcharging. Furthermore, the tuition rate officially adopted by the Newport School Committee for 2003-04, 2004-05 and 2005-06 did not include non-instructional costs for part-time students. Finally, because Newport did not distribute tuition information until well after the beginning of the fiscal year, it has unclean hands in this matter. To impose a retroactive rate change on the participating districts in these circumstances would be inequitable.

Discussion

Regardless of the reason why charges for part-time students’ non-instructional costs did not appear on NACTC bills sent to Portsmouth and Middletown during the 2003-04, 2004-05 and 2005-06 school years, we find that in the circumstances of this case Newport is estopped from invoking the Commissioner’s authority to obtain reimbursement of these costs.

We base this finding on the timing of the issue in dispute. Newport’s handling of the non-instructional costs for part-time NACTC students came to light in January 2006. Obviously, the 2003-04 and 2004-05 school years had been completed. The 2005-06 school budgets for Portsmouth and Middletown had been adopted. The fiscal year had begun on July 1, 2005, and the school year was completing its fifth month.

In adopting their respective 2005-06 budgets, Portsmouth and Middletown relied on Newport’s prior year’s billings in determining the monies needed to fund NACTC tuitions. Those billings did not include non-instructional costs for part-time students. That fact was expressly confirmed by Newport as late as October, 2005. We find that Portsmouth and Middletown’s reliance on those billings to budget for 2005-06 tuitions was justified.

We realize that school budgets are not static items. They must adapt to unanticipated circumstances. Mid-year adaptations put strains on budgets, however.

Newport’s request presents a budgetary strain that Portsmouth and Middletown should not have to bear. Although the September 1st budget regulation cited by Respondents has not yet taken effect,³ we find merit in their argument that their budgetary processes need to be protected from avoidable disruptions. Newport had the opportunity to compute the tuitions to its satisfaction. It did not do so. Moreover, it proposed a significant modification of student tuitions 7 months into the fiscal year. Given the circumstances of Newport’s mid-year request, we find

³ According to the “Special Notes” section of the Board of Regents’ regulations, this provision does not take effect until full state funding is appropriated for career and technical education.

that Portsmouth and Middletown were under no obligation to accept the additional costs.⁴ Newport's request herein is therefore denied.

Conclusion

Newport is estopped from charging Portsmouth and Middletown additional career and technical student tuition costs related to the 2003-04, 2004-05 and 2005-06 school years.

Paul E. Pontarelli
Hearing Officer

Approved:

Peter McWalters:

Date:

⁴ While estoppel is generally not available against a public agency, it has been applied in actions between school districts. See Lavaca School District v. Charleston School District, 800 S.W.2d 703 (Ark. 1990).