



Enclosure 6c
October 11, 2016

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Chair

**Council on Elementary and
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October 11, 2016

TO: Members of the Council on Elementary and Secondary Education

FROM: Karin Forbes, Appeals Committee Chair

RE: Approval of the Appeals Committee Recommendation on the
matter of Student H. vs. Chariho School Committee

The Appeals Committee of the Council on Elementary and Secondary Education met on September 20, 2016, to hear oral argument on the appeal of the following Commissioner decision:

Student H. v. Chariho School Committee

RECOMMENDATION: THAT, in the matter of Student H. v. Chariho School Committee, the Commissioner's decision is affirmed, as presented.

**Council on Postsecondary
Education**

William Foulkes
Chair

Michael Bernstein

Heather D. Crosby

Timothy J. DelGiudice

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The Honorable Thomas Izzo

Dr. Jeffery A. Williams

STATE OF RHODE ISLAND

**COUNCIL ON ELEMENTARY
AND SECONDARY EDUCATION**

STUDENT H. DOE

vs.

**CHARIHO REGIONAL SCHOOL
DISTRICT**

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DECISION

This is an appeal by the Chariho Regional School District (“Chariho”) from the decision of the Commissioner of Education (“Commissioner”), dated June 1, 2016, whereby the Commissioner granted Student H. Doe’s (“Student”) petition to order Chariho’s Superintendent to sign Student’s application to a career preparation program in agricultural science offered at Narragansett High School.

On or about January 25, 2016, Student, a resident of Charlestown, applied for admission to an agricultural science career preparation at Narragansett High School. The Chariho Superintendent denied Student’s request to sign Student’s application in a letter dated February 29, 2016. The letter alleged that the Superintendent was not required to sign the application under the Rhode Island Department of Education (“RIDE”) Career and Technical Education Regulations (“C & T Regulations”) since Chariho also offered a RIDE-approved agricultural sciences program. Student appealed to the Chariho School Committee (“School Committee”) on March 3, 2016. After a hearing, the School Committee unanimously voted to deny Student’s appeal. On March 28, 2016, Student appealed the decision of the School Committee by filing a petition with the Commissioner.

In a decision dated June 1, 2016, the Commissioner determined that the Chariho Superintendent must sign Student's application in spite of the guidance because of the clear and unambiguous language of the C & T Regulations itself. Further, the Commissioner's decision found no merit in Chariho's argument that the C & T Regulations should not apply to Chariho in this case due to the alleged high cost of transportation causing what Chariho views as an inefficient result.

Chariho appealed the decision of the Commissioner and asked for a decision on whether the Commissioner committed procedural error by removing C & T Regulation guidance during the appeal, and whether the C & T Regulations require Chariho to sign Student's application and bear the cost of transportation to Narragansett High School. The Council reviewed the briefs and considered the well-presented arguments of both parties at oral argument. We find that the decision of the Commissioner is consistent with Rhode Island Law.

Chariho argues that the Commissioner's guidance was a rule itself that couldn't be removed without following the rulemaking process. However, Chariho confuses the rule itself, the C & T Regulations, with RIDE guidance on the rule. The Commissioner's decision directly addressed this question and found that the C & T Regulations are clear and unambiguous and therefore guidance from RIDE can't countermand the Regulations. Further, the Commissioner addressed the efficiency arguments presented by Chariho and determined that those policy considerations are properly made during the adoption of regulations. In this case, the express language of the C & T Regulations as adopted by the Board of Regents (predecessor to the Council on Elementary and Secondary Education), require that the Superintendent sign the application and that Chariho bear the cost of transportation. The Commissioner doesn't have the authority to violate the C & T Regulations. No part of the Commissioner's decision is "patently

arbitrary, discriminatory, or unfair” which is the standard of review for Appeals brought to the Council on Elementary and Secondary Education. Altman v. School Committee of the Town of Scituate, 115 (R.I.) 399, 405 (1975). Therefore, Chariho has presented no grounds to reverse the Commissioner’s decision under the Council’s standard of review.

For the reasons stated herein, the decision of the Commissioner is affirmed.

The above is the decision recommended by the Appeals Committee after due consideration of the record, memoranda filed on behalf of the parties and oral arguments made at the hearing of the appeal on September 20, 2016.

Council on Elementary and Secondary Education

Daniel A. McConaghy, Chair

_____, 2016

Karin Forbes, Appeals Committee Chair

_____, 2016