Ashford Board of Education

Meeting Minutes – May 4, 2017

7:00 p.m.

District Office Conference Room

Note: Per C.G.S. §10 – 218, Board of Education meeting minutes are provided in a draft format within 48 hours of the date the meeting was held. With the exception of motions and votes recorded, these minutes are unofficial until they have been read and approved by a majority vote of the Board. Should edits be necessary, they will be made at a regularly scheduled meeting, noted in the meeting minutes, and so voted upon.

Call To Order

Chair J. Rupert called the meeting to order at 7:07 pm. Present were members M. Matthews, J. Lippert, K. Warren, J. Calarese, K. Rourke and L. Donegan (7:24 pm). Also present were Superintendent Dr. J. Longo and recording secretary J. Barsaleau. Present in the audience was AEA co-president J. Horn and resident M. Caye.

Persons to be Heard

None

a. Comments Concerning Items on the Posted Agenda

None

Communications

The board acknowledged receipt of the Spring 2017 Employment Law Newsletter from Shipman & Goodwin and the May 2017 enrollment report.

a. Regional District #11 Dissolution Study Committee Letter

Regional School District #11 sent a letter requesting information from the Ashford Board of Education as they gather data for their committee studying the possible dissolution of Regional School District #11. This will be added to the agenda under *New Business* for further discussion.

Approval of Minutes: 03/30/2017

Motion to approve the minutes of 03/30/2017 made by M. Matthews, seconded by J. Calarese and carried with two abstentions (K. Warren and J. Lippert).

Superintendent's Report

Dr. Longo reported that he had met with the director of the Odyssey Technical School and indicated they are interested in sending a team to visit Ashford School. Dr. Longo reported that he and J. Lippert attended the Board of Finance meeting on 4/27. Although the board presented some additional documentation, the board of finance is still seeking further clarification.

New Business

a. Authorization of Submission of FY 18 Individuals w/Disabilities Education Grant Application

Motion made by J. Rupert to submit the FY 18 Individuals w/Disabilities Education Grant Application. Motion seconded by K. Rourke and carried unanimously.

Motion made by J. Rupert to add as item 6b to the agenda, Discussion of and Respond to the Request of Regional District #11 Dissolution Study Committee. Motion seconded by K. Rourke and carried unanimously.

Discussion followed concerning the questions in the study committee letter including the number of middle school students that could be received by Ashford, tuition rate formulas for regular and special education and transportation. The board directs Dr. Longo to draft a response to the Region #11 study committee after reviewing middle school space availability. The letter will be reviewed by the board chair and forwarded to the study committee on or before May 15th.

Motion made by L. Donegan to add item 6c, discussion of track and field uniforms. Motion seconded by J. Lippert and carried unanimously.

The current uniforms worn by our track and cross-country teams have not held up and show obvious signs of disrepair and there are not enough complete uniforms for participants. It was noted that these are relatively new sports to Ashford. Dr. Longo is directed to follow up on this issue and order more uniforms immediately, if possible.

Old Business

a. Staff Appointment

Interviews were held recently for a second shift custodial position. The committee recommended the appointment of Michael Piantanida to the permanent position. He has been working in a substitute capacity since February.

Motion made by J. Rupert to appoint Michael Piantanida to the position of custodian, motion seconded by L. Donegan and carried unanimously.

Mr. Piantanida was introduced to the board and welcomed to the staff of Ashford School.

b. Certified Staff Tuition for Attendance of Non-Resident Student

Brief discussion was held. The item was tabled pending receipt of a draft memorandum of agreement and a board policy update. It is anticipated these items to be completed during the summer. In the meantime, Dr. Longo will write an article for the Ashford Citizen, requesting feedback and opinions on this subject matter from the public and from staff.

c. FY 18 Budget Worksession

L. Dyer sent a detailed grants spreadsheet for distribution to the Board. As mentioned earlier, a grants related document in word format will be completed and forwarded to the board of education and board of finance. It is not known if the Board of Finance has published a revised FY 18 budget calendar.

Motion by M. Matthews to add to the agenda as item 7d, Discussion of Energy Audit, seconded by K. Rourke and carried unanimously.

M. Matthews inquired as to why some of the energy audit recommendations have not been put into action. The item will be added to the next meeting agenda for further discussion.

Next Meeting Date/Agenda Items

The next regular meeting date is 5/18/17. Agenda items include administrative reports, financial report, energy audit and budget.

Second Opportunity for Public Comment

A reminder that the annual Spring Concert is scheduled for May 25th.

Motion to adjourn the meeting (8:24 pm) made by M. Matthews, seconded by L. Donegan and carried unanimously.

Recorded by:

Jennifer Barsaleau
Recording Secretary

Enrollment Summary: Federal Ethnicity and Race Report as of 05/01/2017 (D3)

Ashford School

View: Federal Ethnicity and Race

Students: All Active Enrollments / Current Selection

Date: 05/01/2017

Grade Level	Total in Grade	(I) American Indian or Alaska Native	(A) Asian	(B) Black or African American	(P) Native Hawaiian / Other Pac Islander	(W) White	Hispanic/Latino	Two or More Race Categories	Unspecified
-2	15 12 / 3	0 0 / 0	2 2 / 0	0 0 / 0	0 0 / 0	13 10 / 3	0 0 / 0	0 0 / 0	0 0 / 0
-1	34 20 / 14	0 0 / 0	0 0 / 0	0 0 / 0	0 0 / 0	29 17 / 12	3 2 / 1	1 1 / 0	1 0 / 1
0	37 22 / 15	0 0 / 0	0 0 / 0	1 0 / 1	1 1 / 0	27 17 / 10	7 3 / 4	1 1 / 0	0 0 / 0
1	41 19 / 22	0 0 / 0	1 0 / 1	1 1 / 0	0 0 / 0	33 14 / 19	2 2 / 0	4 2 / 2	0 0 / 0
2	35 21 / 14	0 0 / 0	0 0 / 0	1 0 / 1	0 0 / 0	24 14 / 10	4 3 / 1	6 4 / 2	0 0 / 0
3	46 21 / 25	0 0 / 0	0 0 / 0	0 0 / 0	0 0 / 0	38 18 / 20	4 2 / 2	3 1 / 2	1 0 / 1
4	31 16 / 15	0 0 / 0	0 0 / 0	2 2 / 0	0 0 / 0	24 13 / 11	5 1 / 4	0 0 / 0	0 0 / 0
5	43 21 / 22	0 0 / 0	2 0 / 2	0 0 / 0	0 0 / 0	37 19 / 18	2 1 / 1	2 1 / 1	0 0 / 0
6	42 13 / 29	0 0 / 0	0 0 / 0	1 1 / 0	0 0 / 0	36 10 / 26	5 2 / 3	0 0 / 0	0 0 / 0
7	42 25 / 17	0 0 / 0	0 0 / 0	1 0 / 1	0 0 / 0	36 23 / 13	4 1 / 3	0 0 / 0	1 1 / 0
8	52 25 / 27	0 0 / 0	3 0 / 3	2 2 / 0	0 0 / 0	43 22 / 21	2 1 / 1	1 0 / 1	1 0 / 1
Total	418 215 / 203	0 0 / 0	8 2 / 6	9 6 / 3	1 1 / 0	340 177 / 163	38 18 / 20	18 10 / 8	4 1 / 3

The Federal Ethnicity and Race view displays aggregate student data as required by the Federal Ethnicity and Race Categories from the U.S. Department of Education. See the help for more information.

Legend

Icons - Date Entry

Rec'd 4-21-17

Regional District 11 Dissolution Study Committee
Chaplin, Hampton, Scotland

Jennifer Nelson, Chair
Scotland Town Hall
9 Devotion Road
PO Box 288
Scotland, CT 06264

Dr. James P. Longo, Superintendent of Schools
Ashford Public Schools
440 Westford Rd
Ashford, CT 06278

April 18, 2017

Dear Superintendent Longo,

In accordance with CGS §10-63b, a committee has been formed to study the advisability of dissolving Regional District 11 which is comprised of Parish Hill Middle High School, grades 7-12. Accordingly, the committee is reaching out to area districts in an effort to gather information to formulate a recommendation. In our efforts to make an informed recommendation we respectfully request answers to the following questions:

1. Would your district be able to accommodate additional middle school aged children? If so, how many seats would you offer?

2. Are there any policies or procedures in place for out of district attendance? (i.e. would the student be able to complete the course of study at this location?)

3. What tuition rate would your district charge, and is the rate negotiable?

4. How are charges for special education services calculated?

5. Could you provide a catalog of course offerings?

6. What extracurricular and sports team opportunities does your school offer?

Your responses will be provided to our local elementary schools, as it would be their choice to designate school options to resident children in the event the regional school district is dissolved. We would appreciate your response as soon as possible, but no later than May 15th so we may incorporate those responses into our study, and use them as supporting facts for our recommendation.

If you are unable to provide answers before May 15, we welcome a statement of interest from your school and will anticipate specific answers to our questions by the end of the school year.

Your response may be addressed to:

RD 11Dissolution Study Committee
Jennifer Nelson, Chair
Town of Scotland
9 Devotion Road
PO Box 288
Scotland, CT 06264

Any additional questions may be directed to Jennifer Nelson at jcn7484@gmail.com. We thank you in advance for your time and attention to this request, and look forward to your reply.

Very truly yours,

Jennifer Nelson, Chair
RD 11 Dissolution Study Committee

Ashford Board of Education
Meeting Minutes – March 30, 2017

7:00 p.m.
District Office Conference Room

Call to Order

Chair J. Rupert called the meeting to order at 7:10 pm. Present were members: J. Rupert, K. Rourke, L. Donegan, M. Matthews, J. Calarese. J. Lippert attended Board of Finance Meeting. Absent: K. Warren. Administrators/staff present were: T. Hopkins, G. Dukette, C. Ford, L. Dyer. M. Caye was also present from the community.

Persons to be Heard

None.

Communications

One from BOF requesting additional items related to BOE budget, and one from Susan Eastwood who sent the results of the Ashford School Energy audit.

Brief discussion about the energy audit results (payback, potential for grant funds, need to prioritize items in audit). This will be a topic for a future BOE agenda.

Approval of Minutes

Approval of minutes from 2/16/17: ***M. Matthews made motion and L. Donegan seconded motion to approve. Motion passed unanimously.***

Approval of minutes from 3/16/17: ***J. Calarese made motion and K. Rourke seconded motion to approve. Motion passed unanimously.***

Administrative Reports

Troy Hopkins, Principal, highlighted several items on his Principal's Report, specifically noting the attendance of six teachers at the NELMS Conference in Providence, RI on March 30th and 31st. Two presentations were submitted and accepted marking yet another year of representation at this annual conference. Mr. Hopkins also shared academic achievement scores for 2015-16 for Ashford vs. the State's average in ELA, Math and Science. The scores were presented in % Points and Ashford scored above the State average in all three categories based on the criteria in the CT Next Generation Accountability System.

Garrett Dukette, Assistant Principal, also highlighted several items on his Assistant Principal's Report including an article he identified that sets out a plan for ensuring that writing occurs across all academic areas. Mr. Dukette is hoping to implement a portfolio process for next school year based on this article. He also discussed implementing benchmark teams with a goal of having teams of teachers grade benchmarks for consistency and efficiency. Other items were

also discussed including: finalization of next year's schedule, PBIS initiative, and the upcoming career fair on May 5th.

Cindy Ford, Director of Pupil Personnel, presented her report, which contained various statistics pertaining to Ashford's population of students. Ms. Ford also elaborated on the S.I.T. program, and discussed how this intervention program compares to special education services under 504 or IDEA/ADA.

New Business: Budget Transfers

Budget transfers were presented by the Finance Director, Lisa Dyer. ***K. Rourke made a motion to approve the budget transfers as presented in the 2016-2017 Budget Transfer Worksheet. M. Matthews seconded the motion, and the motion passed unanimously.*** The Board reviewed the status of the current year (FY17) budget and the detailed A/P Monthly Report **noting that there were no expenditures made on behalf of the Superintendent for the month.**

Old Business

Non-Certified Staff Appointment: Tabled for next meeting.

Certified Staff Tuition for Attendance of Non-Resident Student: ***M. Matthews made a motion and L. Donegan seconded a motion to provide a tuition waiver for the remainder of the 2016-17 academic year for one student via a Memorandum of Understanding. After a discussion pertaining to the some of the specifics of the MOU including the pros/cons and also how special education services would be handled, the Board approved the motion unanimously.*** The Board also agreed that a BOE policy will be developed for the next academic year, and that such a policy would satisfy a Board of Education goal.

FY18 Budget: The Board had a brief discussion pertaining to additional information requested by the Board of Finance. J. Lippert is in attendance at their meeting, and he will report back to administration and the Board Chair. The Board also noted the amended Budget Calendar which is posted on the Town's website and which was in the ***Ashford Citizen***.

Next Meeting Agenda

- Old Business: Staff Appointment
- Certified Staff Tuition for Attendance of Non-Resident Student
- FY18 Budget Worksession

Motion to Adjourn was made by M. Matthews and seconded by J. Calarese. Motion passed unanimously. Meeting was adjourned at 9:30pm.

Recorded and Submitted by

Kimberley.Rourke
Board of Education, Vice Chair on behalf of J. Barsaleau, Recording Secretary

REV 1/2017

CONNECTICUT STATE DEPARTMENT OF EDUCATION

ACADEMIC OFFICE

BUREAU OF SPECIAL EDUCATION

P.L.108-446

SPECIAL EDUCATION GRANT PROGRAMS

GRANT PERIOD
July 1, 2017, to June 30, 2019

GRANT COVER PAGE

To be completed as an "Action Step" and submitted with the Grant Application

Applicant	**Program Funding Dates**
(Name, Address, Telephone, Fax, E-Mail) **Ashford Public Schools** **440 Westford Road** **Ashford, CT 06278** **(860)429-1927** **(860)429-3651 FAX** **www.ashfordct.org**	**From July 1, 2017, to June 30, 2019** **Preliminary Funding Amount** **IDEA Special Education Assistance (611 funds)** **$_____105,753_____** **IDEA Preschool Education (619 funds)** **$____6,954_____** **Total Part B Award (611 funds + 619 funds)** **$____112,707_____**
Contact Person (*Name, Address, Telephone, Fax, E-Mail)* **Dr. James P. Longo** **Ashford Public Schools** **440 Westford Road** **Ashford, CT 06278** **(860)429-1927** **(860)429-3651 FAX** **jplongo@ashfordct.org**	**Check if Consolidated Application** **___ For IDEA, Section 611** **Participating Districts: *(list districts)*** **___ For IDEA, Section 619** **Participating Districts: *(list districts)*** **Please attach list of districts, if needed.*

I, _____Dr. James P. Longo_____, the undersigned authorized chief administrative official, submit this proposal on behalf of the applicant agency, attest to the appropriateness and accuracy of the information contained herein and certify that this proposal, if funded, will comply with all relevant requirements of the state and federal laws and regulations.
In addition, funds obtained through this source will be used solely to support the purpose, goals and objectives as stated herein.

Signature (Superintendent) _____

Name: Dr. James P. Longo

School District: Ashford School District

SECTION 1

SPECIAL EDUCATION GRANT PROGRAMS

Goals, Related Activities and Equitable Access to IDEA-Part B Grants

DIRECTIONS:

Applicants are required as an action step, to provide goals and describe the special education activities related to each identified goal.

Applicants must complete the "Goals and Related Activities" page for each funding source the applicant is applying to receive, the IDEA-Part B, Section 611 (1a) and/or IDEA-Part B, Section 619 (1b).

Applicants must complete a new section related to the U.S. Department of Education′s General Education Provisions Act (GEPA) Section 427, describing the steps to ensure equitable access to, and participation in, its federally-assisted program for students, teachers and other program beneficiaries with special needs. This provision allows applicants discretion in developing the required description with the statute highlighting six types of barriers that can impede equitable access or participation: gender, race, national origin, color, disability or age. Based on local circumstances, you should determine whether these or other barriers may prevent your students, teachers, etc. from such access or participation in, the federally-funded project or activity. The description in your application of steps to be taken to overcome these barriers need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances.

Please Note: IDEA funds may not be used for child find activities, including the identification, location and initial evaluation of children. School districts must provide these activities at local expense using public funds.

The grant application′s "Goals, Related Activities and Access" pages are attached.

1a. Goals, Related Activities and Access to IDEA-PART B, SECTION 611

Special Education and Related Services (Ages 3-21)

ACTION STEP: Fill in information

District Goal # ___1__:

To ensure the district is providing the learning for students with disabilities is within the general education classroom environment to the maximum extent.

School district planned special education activities:

1. Ensure that all students, including identified students, are provided with the appropriate supports and instruction necessary for successful access to the general education.
2. Ensure that identified students with disabilities are provided with the appropriate supports to ensure access and success in the inclusive setting to achieve independence to the best of their ability.
3. Ensure appropriate opportunities for collaboration occurs between the general education, support staff, and special education teachers to design and implement the general education curriculum modifications and accommodations to ensure student success.

Describe the steps to ensure equitable access to, and participation in, its federally-assisted program for students, teachers, and other program beneficiaries with special needs.

Ashford School ensures that there are no barriers that impede equitable access to, and participation of all federally assisted programs for our students, teachers and all beneficiaries. We do this by eliminating all designations of race, gender, sexual orientation, national origin, color, disability or age from the criteria that controls enrollment.

All stakeholders are enrolled in all programs based upon the school schedule and not any personal qualifications. Therefore, all of our programs are bias free, with all impediments removed.

District Goal # ___2__:

To ensure successful participation in developmentally appropriate learning, behavior, social and language experiences for preschoolers with identified delays and language deficits.

School district planned special education activities:

1. Provide staff with professional development opportunities related to behavior management, social skills, de-escalation, language development and motor movement.
2. Provide training and involvement opportunities for parents that encourage successful learning, social and language development.
3. Provide opportunities to reinforce developmentally appropriate learning, communication, behavior, motor and social skills.

Describe the steps to ensure equitable access to, and participation in, its federally-assisted program for students, teachers and other program beneficiaries with special needs.

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All stakeholders are enrolled in all programs based upon the school schedule and not any personal qualifications. Therefore, all of our programs are bias free, with all impediments removed.

Prepare as many pages of the *Goals, Related Activities and Steps Ensuring Access Form* as necessary to describe your district's goals and activities that ensure positive student outcomes.

1b. Goals, Related Activities and Access to IDEA-PART B, SECTION 619

Preschool Special Education (Ages 3-5)

ACTION STEP: Fill in information

District Goal # __1___:

To provide appropriate instruction to preschoolers with disabilities within a heterogeneous early childhood environment.

School district planned special education activities:

1. Provide trained staff to instruct preschool students with delays and language deficits within a Heterogeneous early childhood setting.
2. Maintain an accredited program through NAEYC.
3. Provide an educational, social and language rich program to serve as the foundation for independence, communication and literacy skills appropriate developmentally for preschoolers.

Describe the steps to ensure equitable access to, and participation in, its federally-assisted program for students, teachers and other program beneficiaries with special needs.

Ashford School ensures that there are no barriers that impede equitable access to, and participation of all federally assisted programs for our students, teachers and all beneficiaries. We do this by eliminating all designations of race, gender, national origin, color, disability or age from the criteria that controls enrollment.

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District Goal # ___2__:

To ensure successful participation in developmentally appropriate learning, behavior, social and language experiences for preschoolers with identified delays and language deficits.

School district planned special education activities:

1. Provide staff with professional development opportunities related to behavior management, social skills, de-escalation, language development and motor movement.
2. Provide training and involvement opportunities for parents that encourage successful learning, social and language development.
3. Provide opportunities to reinforce developmentally appropriate learning, communication, behavior, motor and social skills.

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designations of race, gender, national origin, color, disability or age from the criteria that controls enrollment.

All stakeholders are enrolled in all programs based upon the school schedule and not any personal qualifications. Therefore, all of our programs are bias free, with all impediments removed.

Prepare as many pages of the *Goals, Related Activities and Steps Ensuring Access Form* as necessary to describe your district's goals and activities that ensure positive student outcomes.

SHIPMAN & GOODWIN LLP®
COUNSELORS AT LAW

Employment Law Letter

Spring 2017

Labor & Employment Practice Group

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Employee vs. Contractor Is Still a Complex Question

Some time ago, the U.S. Department of Labor announced a focus on what it saw as a workplace trend, namely the characterization of people performing functions that are an integral part of the employer's business (not plumbers or IT consultants) as independent contractors. The DOL said it was targeting businesses that used such misclassification in order to save on payroll taxes and employee benefits. Many human resources administrators took a crash course in the so-called ABC test in order to accurately assess whether their contractors were properly characterized as such.

However, they have since learned that the test is not easy to apply, and the results are not always black or white. Is the worker subject to the employer's "direction and control" in the performance of his or her work? In many cases the answer is "yes and no." Is the work done outside the employer's place of business? That answer is likely clearer, unless of course the work of the employer is done largely at customer locations. Is the worker "customarily engaged in an independently established trade, occupation, profession or business?" This last question, which is part C of the ABC test, is easy to answer affirmatively in the case of a plumber or IT consultant, but not necessarily in other situations.

Take the case of an appraisal company that hired individual automobile appraisers, and treated them as independent contractors. In a dispute over whether the business should be making payroll tax payments on the compensation of the appraisers, the Connecticut Labor Department determined that while they met parts A and B of the independent contractor test, they failed part C, because they didn't currently have any other active customers. A trial court judge agreed, and said they were employees.

However, when the case ended up in the Connecticut Supreme Court, the justices had a different view. They said that having other active customers was only one of ten factors to consider in determining whether the appraisers conducted independent businesses, including using their own supplies and equipment, and holding themselves out to the public as separate entities. When all ten factors were considered, they said, the appraisers passed part C of the test.

Independent contractor status has other consequences beyond payroll taxes. For example, only employees have the right to unionize, not independent contractors. That determination is made by the NLRB, but the courts don't always agree with them either.

Just last month, a federal appeals court ruled that FedEx drivers who work out of a delivery terminal in Hartford are independent contractors, thus overturning an NLRB determination that those drivers were employees entitled to unionize. The judges chided the Board for arguing that the court should reach a different result than it did a few years earlier in a similar case involving FedEx drivers in Massachusetts.

Our advice to employers is to make very sure that workers who are involved in a central element of their business can pass the ABC test with flying colors before labeling them as independent contractors. A 51-49 case can very easily go the wrong way, and defending litigation over this issue can be time-consuming and expensive, even if you ultimately prevail.

Recent S&G Website Publications

Executive Orders Regarding Immigration
Published February 2, 2017

President Trump Issues March 6th Executive Order Revising Travel Ban
Published March 8, 2017

Starting May 1, 2017 USCIS Will Issue Redesigned Green Cards and Employment Authorization Documents
Published April 19, 2017

Immigration matters are changing rapidly, so we have created a page to keep our clients apprised of changes as they happen. Please visit **shipmangoodwin.com/immigrationupdates** *and sign up to receive email alerts as they are posted.*

Visit our award-winning Connecticut Employment Law Blog, **www.ctemploymentlawblog.com**

When Are You Liable For Supervisory Misconduct?

We have reported more than once on cases where a well-meaning employer gets into trouble because one of its supervisors engages in discriminatory or otherwise illegal conduct. This includes liability under the "cat's paw" theory, where management action based on a good faith judgment is tainted by the improper motivation of a supervisor. An example would be a reduction in force where employees affected are those with low performance ratings, but one of those ratings is made by a supervisor whose evaluation of a subordinate is negatively affected by the fact that she spurned his advances.

But is the employer always liable for the inappropriate conduct of a supervisor? Not always. A New London Superior Court judge recently tossed out a lawsuit against Walmart by an employee who was videotaped by a supervisor as she used the restroom. The video was then posted on Facebook. The employee sued Walmart for discrimination, negligent supervision and infliction of emotional distress. However, the judge said that there was no evidence that the misconduct was based on gender, that the employer had reason to be aware of the potential for misconduct, or that it had any intent to harm her.

This case may be an exception, however. Only a few weeks later a federal judge refused to dismiss a lawsuit against the Yale School of Medicine brought by a post-doctoral fellow who alleged sexual harassment by a professor. The judge noted that the plaintiff had complained about the professor to her department chair, who had returned her to work in his laboratory. The key here, of course, is that Yale had reason to be aware of the problem.

Our advice has always been to tackle such problems head-on, and never to sweep them under the rug or look the other way. It is particularly important, however, to assure that this message is heard up and down the chain of command. In the Yale case, the department head should have reported the problem to the dean of faculty, or better yet, to human resources. It's a message that can't be repeated too often.

No "Tip Credit" For Delivery Drivers

The question of whether pizza delivery drivers can be paid a reduced minimum wage because they frequently receive gratuities from customers may not seem like a big deal (unless of course you're a pizza delivery driver), but the operator of Domino's pizza franchises in southeastern Connecticut has taken the issue all the way to the state's Supreme Court.

Connecticut's "tip credit" regulations allow for payment of less than the statutory minimum wage to "service employees" delivering food or beverages to seated patrons, because

they frequently receive tips that substantially increase their compensation. Although this credit historically has been applied only to bartenders and waitstaff, the pizza franchise operator argued that its delivery drivers perform essentially the same function, namely delivering food to customers.

The Labor Commissioner didn't buy it. Neither did a Superior Court judge nor, just a few days ago, the Connecticut Supreme Court, which devoted more than 20 pages of analysis to the issue.

Interestingly, the discussion did not focus so much on the wording of the regulation as on the logic behind it. On its face, the tip credit is limited to those serving food or drink to customers seated in bars or restaurants, but neither the Labor Commissioner nor the judges stopped there. Pizza drivers only spend a few brief moments with customers, and have little opportunity to form the kind of relationship that influences gratuities. Most of their time is spent driving or interacting with whoever dispatched them.

The Supreme Court was also influenced by the fact that the tip credit regulations have been in effect for decades without challenge, and without any action by the General Assembly to change them through legislation. So now you know you can tip your pizza delivery driver without any impact on his or her base wage rate.

Who Qualifies For UC Is Sometimes a Tossup

Employers don't often contest decisions on whether their former employees are eligible for unemployment benefits, in part because most employers don't pay for those benefits themselves. When they do contest an award of benefits, it's presumably because they feel strongly about it. However, even in what may seem like clear cases, the outcome is anything but certain.

Take for instance a recent decision about a New Britain man who was scheduled for jury duty, but when it was cancelled took the day off without informing his supervisor of the cancellation. When he was fired, he was denied jobless benefits due to willful misconduct. However, when he took the matter to court a judge said he was entitled to benefits because his employer had no rule or policy stating that if jury duty was cancelled, the employee had to report for work. An appellate court reversed that result, but who knows what the Supreme Court might do?

Maybe it's because the unemployment rate has dropped to nearly normal, but the state also seems to be getting more lenient with regard to employees who quit work because they don't like their working conditions. A front page story in a recent edition of the Connecticut Law Tribune discusses the case of a nurse in a New Britain nursing home who quit when she found she would be assigned to work with paralyzed patients, which required more physical effort than working with other patients. The history of that case is instructive.

When she first filed for unemployment compensation she was denied, because working with disabled patients was simply part of her job. An appeals referee upheld the denial. However, the Board of Review found the nurse had "good cause" to leave her job, and awarded benefits. The employer took the matter to court, but the judge upheld the decision of the Board of Review.

Our opinion is that the lawyers quoted in the Law Tribune are

SHIPMAN & GOODWIN LLP®
COUNSELORS AT LAW

ALYCE ALFANO
ANDREANA BELLACH
GARY BROCHU
BRIAN CLEMOW*
LEANDER DOLPHIN
KEEGAN DRENOSKY
BRENDA ECKERT
CHRISTOPHER ENGLER
JULIE FAY
MELIKA FORBES
BEN FRAZZINIKENDRICK
SUSAN FREEDMAN
SHARI GOODSTEIN
GABE JIRAN
ANNE LITTLEFIELD
JARAD LUCAN
PETER MAHER
ASHLEY MARSHALL
LISA MEHTA
ASHLEY MENDOZA
RICH MILLS
TOM MOONEY
PETER MURPHY
JESSICA RITTER
SARANNE MURRAY
KEVIN ROY
REBECCA SANTIAGO
DANIEL SCHWARTZ
ROBERT SIMPSON
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CLARISSE THOMAS
CHRISTOPHER TRACEY
LINDA YODER
HENRY ZACCARDI
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* Editor of this newsletter. Questions or comments? Email bclemow@goodwin.com.

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New Haven, CT 06510-7013
203-836-2801

400 Park Avenue - Fifth Floor
New York, NY 10022-4406
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correct, in that the state is becoming more liberal in the awarding of unemployment compensation benefits. However, the outcome in any given case is still difficult to predict, in part because concepts like "good cause" mean different things to different people.

Legal Briefs
and Footnotes

Union Contract Helps Employer: Who knew that having a union contract might be beneficial to an employer? That's what the Town of Cromwell found out when a terminated police officer filed a wrongful discharge lawsuit. The judge dismissed the complaint because the police officer had failed to exhaust his administrative remedies. Specifically, he failed to pursue a claim under the grievance and arbitration provisions of his union contract. Now it is presumably too late for him to do so.

Arbitrator Can't Reinstate Coach: When a New Haven baseball coach who was also a teacher failed to report improper conduct by an assistant, he was transferred to a teaching assignment in a different school, and terminated from his coaching position. The matter ended up before an arbitrator who decided the offense didn't warrant either the transfer or the dismissal. The Board of Education went to court, where a judge upheld the arbitrator's decision with respect to the teaching position, but not the coaching job. A Connecticut statute specifically says that a challenge to the dismissal of a coach in a public school district can only be taken up with the local or regional board of education, so in this case the arbitrator exceeded her authority.

"Public Policy" Theory Limited: In our last issue we reported on an employee who convinced a judge that allowing his supervisor at Schaller Auto World to accept shipments of guns at work created an unsafe workplace in violation of public policy. That argument doesn't always work, however. Another judge has dismissed a claim by a special education teacher in Windham that her workplace was unsafe because her class included students with behavior issues and even criminal histories. The judge said these risks are inherent in the employer's mission, which she should have known when she accepted the position.

Retaliation Can Be Expensive: We've said many times that retaliation against employees who report or claim to be the victims of discrimination can be as bad or worse than the discrimination itself. The latest lesson involves a $5.5 million jury verdict against Walmart, including $5 million in punitive damages. The jury found the plaintiff had not been discriminated against himself, but was targeted for termination in a RIF after complaining that Walmart was systematically eliminating African-American managers from its Connecticut stores. The verdict will likely be trimmed through judicial review, but it's an eye-opener nevertheless.

Workers Comp for Cops: Police officers and firefighters get a special deal when it comes to workers compensation. They're covered from when they leave their "place of abode" until they return to it. A New Haven cop claimed that guaranteed him benefits when he left his house to go to work and walked to his car parked on the street. He injured his back when he dropped his car keys and bent over to pick them up. The City claimed he hadn't yet left his abode and therefore wasn't covered for his injury, and the Compensation Review Board agreed. However, a divided Supreme Court has now awarded benefits, despite a dissent that said the injury occurred before the officer left his "place of abode."

Save the Date:

Sexual Harassment Prevention Training
May 4 or August 10, 2017
Hartford Office

Register at www.shipmangoodwin.com

Ashford Board of Education

Grants Applied Before Budget estimated from 15-16 expenses | W/O Grants | Grants Applied After16-17 Budget

Obj. Code	Account Description	Original Budget 2015-2016	Prior Year 2015-2016 Expenditure	2015-2016 Balance Remaining	IDEA B611/619 Expend.	Title III Expend.	Readiness Expend.	Primary Mental H. Expend.	Title I Expend.	Title II 15/17 Expend.	Title II 16/18 Expend.	16-17 SUBTOTAL EXPENDED	Tech Grant Expend.	Readiness Competitive Expend.	REAP 14/16 Expend.	REAP 15/17 Expend.	TOTAL EXPENDED	Variance Orig. Budget
111	Certified Staff	2,947,376.18	2,919,571.60	27,804.58	0	0	0	0		0	0	2,919,572	0	0	0	0	2,919,572	(27,805)
01-1101-111-00001 Sp. Ed. Certified Staff 1.9 FTE					112,706	0	0	0	0	0	0	112,706	0	0	0	0	112,706	112,706
01-1100-111-00000 Elementary Certified Staff - .5 FTE					0	0	40,380	0	0	0	0	40,380	0	0	0	0	40,380	40,380
Admin. Stipend - No line in BOE budget					0	0	5,400	0	0	0	0	5,400	0	0	0	0	5,400	5,400
01-1101-111-00001 Middle School Certified Staff - 1 FTE					0	0	0	0	45,085	0	0	45,085	0	0	0	0	45,085	45,085
01-1101-410-00002 Middle School Writing .5 FTE					0	0	0	0	0	0	0	0	0	0	23,543	0	23,543	23,543
01-1101-410-00002 Middle School Writing					0	0	0	0	0	0	0	0	0	0	0	427	427	427
112	Non-Certified Staff	1,480,133.90	1,443,131.34	37,002.56	0	0	0	0	0	0	0	1,443,131	0	0	0	0	1,443,131	(37,003)
01-2200-312-01220 Workshop Sub. Pay					0	340	0	0	0	0	0	340	0	0	0	0	340	340
01-1100-112-00010 Regular Ed Paraprofessional 1.5 FTE					0	0	32,552	0	0	0	0	32,552	0	0	0	0	32,552	32,552
01-2120-111-00000 Social Worker - Shared with town					0	0	0	15,050	0	0	0	15,050	0	0	0	0	15,050	15,050
01-2200-312-01220 Workshop Sub. Pay					0	0	0	0	0	1,038	0	1,038	0	0	0	0	1,038	1,038
200	Insurance	1,018,356.46	1,053,525.14	(35,168.68)	0	0	0	0	0	0	0	1,053,525	0	0	0	0	1,053,525	35,169
01-2200-205-01220 social Security/Medicare Costs					0	0	3,049	0	0	0	0	3,049	0	0	0	0	3,049	3,049
205	Other Insurances	405,431.66	399,869.24	5,562.42	0	0	0	0	0	0	0	399,869	0	0	0	0	399,869	(5,562)
312	Instructional Improvement	38,500.00	50,136.02	(11,636.02)	0	0	0	0	0	0	0	50,136	0	0	0	0	50,136	11,636
01-2200-312-01220 Workshop Sub. Pay					0	550	0	0	0	0	0	550	0	0	0	0	550	550
319	Professional Services	240,400.00	223,493.32	16,906.68	0	0	0	0	0	0	0	223,493	0	0	0	0	223,493	(16,907)
01-1200-319-02120 Training Seminars Sp.Ed.					0	0	3,339	0	0	0	0	3,339	0	0	0	0	3,339	3,339
01-1200-319-02120 Training Seminars Sp.Ed.					0	0	0	0	0	3,935	0	3,935	0	0	0	0	3,935	3,935
01-1200-319-02120 Training Seminars Sp.Ed.					0	0	0	0	0	0	414	414	0	0	0	0	414	414
321	Utilities	72,000.00	65,600.06	6,399.94	0	0	0	0	0	0	0	65,600	0	0	0	0	65,600	(6,400)
322	Maintenance	101,668.00	158,524.16	(56,856.16)	0	0	0		0	0	0	158,524	0	0	0	0	158,524	56,856
01-1200-322-15254 Sp. Ed. Equip. Maintenance					0	0	0	954	0	0	0	954	0	0	0	0	954	954
323	Equipment Maintenance	3,600.00	2,967.90	632.10	0	0	0	0	0	0	0	2,968	0	0	0	0	2,968	(632)
324	Liability Insurance	46,798.91	32,252.27	14,546.64	0	0	0	0	0	0	0	32,252	0	0	0	0	32,252	(14,547)
331	Transportation	73,374.89	31,536.42	41,838.47	0	0		0	0	0	0	31,536	0	0	0	0	31,536	(41,838)
340	Communication	12,000.00	13,100.96	(1,100.96)	0	0	0	0	0	0	0	13,101	0	0	0	0	13,101	1,101
370	Outside Services	505,831.00	350,902.88	154,928.12	0	0	0	0	0	0	0	350,903	0	0	0	0	350,903	(154,928)
390	Purchased Services	46,172.00	50,348.06	(4,176.06)	0	0	0	0	0	0	0	50,348	0	0	0	0	50,348	4,176
01-2200-390-02220 printing/advertising					0	0	2,820	0	0	0	0	2,820	0	0	0	0	2,820	2,820
01-2200-390-02220 printing/advertising					0	0	0	0	0	0	0	0	0	1,788	0	0	1,788	1,788
410	Supplies	129,018.00	133,456.70	(4,438.70)	0	0	0	0	0	0	0	133,457	0	0	0	0	133,457	4,439
01-1100-410-01000 Elementary General Supplies					0	0	25,861	0	0	0	0	25,861	0	0	0	0	25,861	25,861
01-1109-410-02009 Health Supplies					0	0	0	5	0	0	0	5	0	0	0	0	5	5
01-2600-410-02260Technology Middle School Supplies					0	0	0	0	0	0	0	0	5,897	0	0	0	5,897	5,897
01-1200-410-01120 Sp. Ed. Supplies					0	0	0	0	0	0	0	0	0	285	0	0	285	285
411	Heating Fuel	105,000.00	103,818.16	1,181.84	0	0	0	0	0	0	0	103,818	0	0	0	0	103,818	(1,182)
412	Transportation Fuel	50,500.00	40,901.15	9,598.85	0	0	0	0	0	0	0	40,901	0	0	0	0	40,901	(9,599)
420	Textbooks	2,000.00	8,695.26	(6,695.26)	0	0	0	0	0	0	0	8,695	0	0	0	0	8,695	6,695
540	Equipment	118,311.00	279,176.91	(160,865.91)	0	0	0	0	0	0	0	279,177	0	0	0	0	279,177	160,866
01-2600-540-02260 Technology Middle School Equipment					0	0	0	0	0	0	0	0	4,103	0	0	0	4,103	4,103
01-1200-540-04120 Sp.Ed. Equipment					0	0	0	0	0	0	0	0	0	1,808	0	0	1,808	1,808
640	Dues & Fees	26,099.00	30,597.37	(4,498.37)	0	0	0	0	0	0	0	30,597	0	0	0	0	30,597	4,498
700	Audit Adjustments	500.00	0.00	500.00	0	0	0	0	0	0	0	0	0	0	0	0	0	(500)
	Totals	7,423,071.00	7,391,604.92	31,466.08	112,706.00	890.00	113,400.00	16,009.00	45,085.00	4,973.00	414.00	7,685,082	10,000.00	3,881.00	23,543.00	427.00	7,722,933	299,862
																	TOTAL Grants Expenditures	331,328
												16-17 BOE Budget Savings Due to Grants applied prior to	*262,011*				BOE Appropriation Balance Remaining	(31,466)