

Comments provided at Centerline's review conference 9-12-2019

Not an attorney

Not the final say on pupil accounting rules

Auditor by training – Observer by experience

Let me suggest that most pupil accounting issues revolve around the pupil accounting rules. While you will find all sorts of references to those in the work performed by Roberta Farina, and while obviously important, I believe you need to also be mindful of their underlying intent and spirit. You are the body charged with the authority to not only apply the rules but to interpret them as well and in light of their intent and spirit. This is also critical here because this case appears to involve actions taken in full knowledge of the rules, their intent and spirit that were calculated to circumvent them by masking them with the veneer of compliance as a deception. On the surface some things might appear legitimate on cursory inspection, but delve deeper and it appears to be something entirely different.

Being an accountant, I'm reminded of the doctrine "Substance over Form" which looks at the actual substance of an arrangement rather than its form in full knowledge that it is substance that is the key.

This program was created with two goals in mind

1. To offer private lessons that are extracurricular in nature to homeschool students with no real intent to offer and make them available in a similar manner to the traditional full time pupils as is required and
2. To count the FTE for these homeschool students with as minimal instruction as possible to maximize the revenue derived therefrom in a manner inconsistent with a legitimate, vested and rigorous educational program.

As a note, we would be as equally skeptical if the content had been articulated as part of a full-time, virtual program. In fact, any state aid for extra-curricular classes depends on proof that the student was regularly enrolled in a core-curricular program for the requisite number of days and hours or that the student was not truant. To our knowledge, the district in question has not made any such inquiry let alone aggregated documentation that the home schoolers availing themselves of state funded extra-curricular offerings through the district were in fact in regular, daily attendance in a state approved education program.

This program falls under what is termed a shared time arrangement specifically under Section 166b of the school aid act.

Key terms – Non-core class offered and available to traditional full time pupils  
Subject to compliance with the same requirements that apply to full time pupils  
During regular school hours

Much of the requirement results from Snyder vs. Charlotte case

Keep in mind, offered and available generally means you provide to your home school students those classes you already offer to your traditional full time pupils.

Here, this was done just the opposite or backwards. Offer to your homeschool students what they want and then, superficially and as nothing more than an afterthought, justify that you are offering and making the same thing available to your traditional full time pupils. In this regard, questions also abound such how this is being done for your traditional students – at school?

In addition, it's questionable whether the private lessons were the actual course based on

1. The disparity in actual instruction given in the virtual course versus the private lessons.
2. The cost of private lessons versus cost of the virtual instruction.
3. The fact that the home school student themselves viewed the private lesson as the actual course.

That raises further questions regarding the certification of the private instructors.

As for the superficial virtual course, it bears no resemblance to a traditional brick and mortar or any other virtual course provided by the district both in time or content. Furthermore, the course offerings appear to be the same for all grade levels. In addition, the grading policies differed for traditional full time pupils compared to the grading policies of home school students for these supposedly similar courses. Furthermore, it appears these versions of the courses were never Board approved.

As to same requirements that apply to full time pupils, I find it odd that one would assume a home school student would be allowed to take more non-core courses than traditional full time pupils may take. I understand in 2017 the legislature put a cap of .75 that could be allowed, but's that is the outer cap. The 1<sup>st</sup> threshold to be met is what a traditional full time pupil is allowed. In referencing Snyder vs. Charlotte and subsequent MDE decisions it is clear that preferential treatment may not be given in a shared time setting and the amount of FTE is presumed to be incidental.

Not only did we find FTE's to be greater than that offered a traditional full time pupil but the amount of FTE to be grossly overstated based on the amount of instruction supposedly given.

With regard to the classes being offered during the regular school day at the public school site, it was evident to us that the optional learning experiences, which I previously suggested were the real course, were not. This made it even more difficult or less practical for the traditional full time pupil to participate.

I remind you, that not even one full time traditional pupil ever voluntarily participated in this program.

When asked how the district could modify/tweak this arrangement to satisfy the deficiencies identified, we indicated they should start over from the beginning and offer the same courses presently provided to the traditional full time pupils to the home school students as we originally told them from the beginning. It is troubling that each iteration of these programs from year to year do not change the substance of the arrangement but only serve to further cover up what is actually occurring. It's like putting perfume on a pig. I would suggest that we haven't even scratched the surface with regard to the actual discussions that have taken place in devising this arrangement and its subsequent iterations. In

addition, we were directly informed that the district purposely withheld information from us because they felt we had ulterior motives.

Having attended a similar review conference recently to gain a better understanding of the review process, it has become evident to me that the depth of review of those similar home school arrangements by ISD's across the state may not have delved into them as much as we did, either because of being pressured not to, or just due to a lack of understanding of the true nature of the arrangement. I say this because we have been criticized for the delay in completing our audit, yet when you realize that what we have been told on the surface appears to be something entirely different in true substance, it becomes evident why it was necessary to expand the scope of our audit in an effort to get to the real substance of this arrangement. Accordingly, I would recommend a further review by one party (for consistency purposes) of all such programs throughout the state. We would be more than willing to assist/consult in this effort short of performing the audit itself.