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To: Tiverton Town Council
From: Stephanie Federico, Solicitor
Date: June 22, 2015
Re: School Department Budget/Tiverton General Fund

At the request of the Council President I have been asked to prepare this memorandum for the Town Council concerning clarification on the Town of Tiverton's General Fund as it relates to the Tiverton School Department and any surplus that they may currently possess.

Specifically, I understand that there has been public inquiry as to whether or not the Town of Tiverton can recover any surplus from the Tiverton School Department to be applied to the Town's General Fund. The Rhode Island General Laws specifically prohibit the Town from applying any District Surplus to the General Fund for the Town. Rhode Island General Laws Section 16-7-23(b) states:

Whenever any state funds are appropriated for educational purposes, the funds shall be used for educational purposes only and all state funds appropriated for educational purposes must be used to supplement any and all money allocated by a city or town for educational purposes and, in no event, shall state funds be used to supplant, directly or indirectly, any money allocated by a city or town for educational purposes. All state funds shall be appropriated by the municipality to the school committee for educational purposes in the same fiscal year in which they are appropriated at the state level even if the municipality has already adopted a school budget. All state and local funds unexpended by the end of the fiscal year of appropriation shall remain a surplus of the school committee and shall not revert to the municipality. Any surplus of state or local funds appropriated for educational purposes shall not in any respect affect the requirement that each community contribute local funds in an amount not less than its local contribution for school in the

previous fiscal year, subject to subsection (a) of this section, and shall not in any event be deducted from the amount of the local appropriation required to meet the maintenance of effort provision in any given year. (Emphasis added).

Subsection A of 16-7-23 carves out exceptions to the rule above. Specifically it states “Calculations of the annual local contribution shall not include Medicaid revenues received by the municipality or district pursuant to Chapter 8 of Title 40.” It also states that “a community which has a decrease in enrollment may compute maintenance of effort on a per pupil rather than on an aggregate basis when determining its local contribution; furthermore, a community which experiences a nonrecurring expenditure for its schools may deduct the nonrecurring expenditure in computing its maintenance of effort.” The deduction of nonrecurring expenditures must receive the approval of the RIDE Commissioner. It is further defined that “debt service that is no longer carried on the books of any school district shall not be included in any school districts’ annual budget, nor shall no recurring debt service be included in maintenance of effort as set forth in this chapter, nor shall any non-recurring debt service be included in the operating budget for any school district.” RIGL 16-7-23(a).

The plain language of RIGL 16-7-23 *does not* allow for a municipality to recapture any surplus from the local school district to apply to the Town’s General Fund. Furthermore, there is ample Rhode Island case law that supports the principle that once a municipality appropriates funds to a school district, that appropriation is final and the municipality cannot make any attempt to regain control over those funds regardless of the town’s financial condition.

In Coventry Sch. Comm. v. Richtarik, 411 A.2d 912, 914 (R.I. 1980), the Rhode Island Supreme Court held that “[u]nder our law, once an appropriation is made for the use of the school committee, the expenditure of those funds is within the committee’s sole and exclusive jurisdiction.” The Court relied upon G.L. 1956 Section 16-2-18, which states in, pertinent part, “the entire care, control, and management of all the public school interests of the several towns, shall be vested in the school committee of the several towns, and they shall also draw all orders for the payment of their expenses.” The Court in Richtarik also cited a series of cases upholding the principal. See Dawson v. Clark, 176 A.2d 732 (R.I. 1962) (Pawtucket school committee had exclusive authority over purchasing life insurance for employees); Bailey v. Duffy, 121 A. 129 (R.I. 1923) (West Warwick financial town meeting has no authority to alter janitor salaries set by the school committee); Times Publishing Co. v. White (R.I. 1901).

The Tiverton School Committee has “sole and exclusive jurisdiction” over the expenditure of all money appropriated to the school district. Therefore, the Town cannot appropriate school funds, regardless of whether or not they are considered a district surplus, to the Town general fund or otherwise exercise control over school funds in any manner.