

Dual Enrollment Funding
Background, the Current Statutory Program, and Potential Issues
3/17/14 – DRAFT

I. Independent Schools in Vermont

In general terms, there are two types of private schools in Vermont:

- Approved independent schools: eligible to receive publicly funded tuition dollars from sending school districts
 - *Except* if the approved independent school is sectarian – the VT Supreme Court’s *Chittenden* decision held that to do so would violate the VT Constitution’s Compelled Support Clause
 - Typically, an approved independent school enrolls both private-pay and publicly funded students
- Recognized independent schools: not eligible to receive publicly funded tuition dollars regardless of whether they are nonsectarian or sectarian

Both approved and recognized independent schools satisfy the statutory requirements of school attendance (*i.e.* a student is not truant if s/he attends either an approved independent school or a recognized independent school)

II. Dual Enrollment Program – 16 V.S.A. § 944

The 2013 General Assembly enacted the Dual Enrollment Program, which provides public funding for high school students to enroll in up to two college classes for which the student receives both high school and college credit.

(a) Funding

The statutorily set rate for dual enrollment courses is paid as follows:

- 50% by the school district of residence from its voter-approved budget funded by the statewide education property tax (Education Fund dollars)
- 50% by the State from the Next Generation Initiative Fund (General Fund appropriations)
- *Except* that 100% of the cost is paid by the State out of the Next Generation Initiative Fund in FY14 and FY15

(b) Student Eligibility

Among other criteria, a student is *eligible* for public funding of a dual enrollment course if s/he is enrolled in:

- A Vermont public school
- A public school in another state or an approved independent school that the student's school district designates as the high school for all resident students
- A Vermont approved independent school if the student is publicly funded
- A home study program
- (Or is assigned to a public high school through the high school completion program)

A student is *not eligible* for public funding of a dual enrollment course under the statutory program if:

- The student resides in a "choice" town and his or her high school tuition is privately paid because s/he is enrolled in:
 - A recognized independent school
 - An approved independent school that is sectarian
- The student resides in a "choice" town and his or her publicly funded tuition is paid to an out-of-state school (other than one that serves as the designated school for the district)
- The student resides in a school district that operates a public high school and the school district does not agree to pay tuition to the independent school the student enrolls in under the exception provided in § 822(c)
- The student is publicly funded (at a public or independent school) but wants to enroll in a course at a VT private college that does not choose to participate in the program (note: VT State Colleges and UVM are required to participate; private colleges are not) or in a public or private college in another State
- The statutory program has already paid for the student to take two dual enrollment courses

III. Some Additional Background Information

Prior to enactment of the 16 V.S.A. § 944, there was no formalized "dual enrollment program" in Vermont. Rather, there were a myriad of ways in which funds from different sources were used to pay for courses for which high school students received both high school and college credit:

- For several years, the General Assembly appropriated money from the Next Generation Initiative Fund to CCV to be used for vouchers enabling high school students to enroll in college courses for both high school and college credit. Although CCV marketed the program primarily to students who did not have a family history of college attendance or were at risk of dropping out, any high school student could obtain a voucher for one free college course while funds remained available. Appropriations equaled approximately \$400,000 annually in the years immediately before enactment of 16 V.S.A. § 944, which funded about 585 vouchers each year. CCV paid the money directly to the college.

Apparently these payments were sometimes made on behalf of students whose tuition at an independent high school was privately paid (*e.g.*, the student was enrolled in a recognized independent school or in a sectarian approved independent school or the student's district of residence operated a public high school). ***In 2013, the General Assembly formalized both the structure and the funding of this program by enacting 16 V.S.A. § 944.***

- For many years, some public and independent high schools have entered into independent agreements with private and out-of-state colleges to provide dual enrollment courses for their students. These courses are paid for by the school's budget (and, at the discretion of the high school, the student may pay a portion of the tuition). ***The dual enrollment program created by 16 V.S.A. § 944 does not change this.***
- For many years, some students have paid for college courses that, under policies adopted by the high school, are accepted for high school credit. ***The dual enrollment program created by 16 V.S.A. § 944 does not change this.***
- For many years, career technical (CTE) centers have offered dual enrollment courses through the Fast Forward Program funded by federal Perkins Grants. ***The dual enrollment program created by 16 V.S.A. § 944 does not change this.***

IV. Policy Choices and Potential Legal Issue

(a) Policy Choices

The decision whether to include students whose tuition is privately paid is a policy decision for the General Assembly. Last year the General Assembly considered only funding students who attended public high schools, but ultimately expanded the new Dual Enrollment Program to include any student whose high school tuition was publicly funded. The decision was based in part on the fact that after FY15 one-half of the cost of a dual enrollment course under the program will be paid by the student's district of residence. A student receiving publicly funded tuition is included within the district of residence's ADM and therefore already influences the district's tax rate in a positive way. A privately funded student is not included in a district's ADM. The General Assembly has the authority to reconsider this policy decision and to expand, restrict, or otherwise change student eligibility under the new § 944 Dual Enrollment Program or to keep eligibility as currently enacted.

(b) Potential Legal Issue

The question of whether to expand student eligibility to include students whose high school tuition cannot be publicly funded because they are enrolled in a sectarian high school raises a question under the VT Constitution's Compelled Support Clause. Although the issue is not precisely within the fact pattern before the *Chittenden* Court, it is not so attenuated that it can be entirely ignored: the student is able to satisfy high school requirements by the payment of public funds to the college, which indirectly supports the sectarian high school and the financial and programmatic decisions it makes.