

THE STATE OF NEW HAMPSHIRE

6TH CIRCUIT – PROBATE DIVISION – CONCORD

IN RE: LACONIA STATE SCHOOL TRUST FUNDS

Docket No. 317-2017-EQ-599

**AMENDED PROPOSED ORDER**

After reviewing the pleadings in the above-entitled matter, the Answer and subsequent Report filed by the Director of Charitable Trusts, and there being no appearances or responses filed by anyone else claiming any interest or estate in and to the subject matter of this action (other than those noted by the Director in his Report), the Court finds the following:

- (i) This Court has subject matter jurisdiction;
- (ii) The case has been filed according to usual procedure in the normal course;
- (iii) That all material and well-pleaded allegations of fact set forth in the Petition for Cy Pres are accepted as true; and
- (iv) The Petition sets forth sufficient facts to justify the application of the Cy Pres doctrine. RSA 547:3-d. Specifically, it is impossible to carry out the specific purpose of the Laconia State School Trust Funds, since the Laconia State School no longer exists and there are no longer “residents” of that school.

IT IS HEREBY ORDERED as follows:

1. Apply the Doctrine of Cy Pres, pursuant to RSA 547:3-d, to the Laconia State School Trust Funds as follows:
  - a. Modify the purpose restriction of the seven Laconia State School Trust Funds to change the eligible beneficiary class from “residents” of the Laconia State

School to "former residents" of the Laconia State School; and when no former residents are living, if there is any trust corpus remaining, the beneficiary class shall be expanded to include individuals receiving services from the state developmental services system.

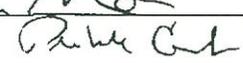
- b. Eliminate the permanent restriction on the use of the Williams and Kidder funds to enable spending of principal as well as income.
- c. Establish the following process for former residents to apply for distributions from the Trust Funds:
  - i. Each Area Agency in the State Developmental Services system may submit requests on behalf of their clients who were former Laconia State School residents for expenditures on an equitable basis from the Trust Funds. Former Laconia State School residents not receiving services from an Area Agency may submit requests for expenditures directly to the Department. Requests may be made only for any of the following purposes: up to \$5,000 lifetime for dental work; up to \$200 per year for transportation; up to \$200 per year for clothing; up to \$1,000 per year for home equipment and repair; up to \$500 per year for education; and up to \$5,000 lifetime for adaptive durable medical equipment (including hearing aids).
  - ii. Each request from an Area Agency must be in a form and result from a review process satisfactory to the Department.

- iii. Each request must state specifically the name of the former resident, the specific expense, the requested amount, and the name and address of the payee.
  - iv. Each request must include a certification that the expense is eligible for payment under the terms of this paragraph, that there are no alternative funds available for payment of that expense (including Medicaid) and that the payment will not negatively impact any public benefit received by the former resident.
- d. The Commissioner of the Department or his agent, in his or her discretion, may accept or reject any request for payment received through the process in (c) above. The Commissioner or his agent shall then present the New Hampshire Treasurer with periodic (but not more frequently than monthly) vouchers for payment of approved requests on behalf of the former residents. Each voucher shall contain: the name of each former resident on whose behalf payment is to be made, each payee's name and address, and a signed certification that each payment complies with the terms of the final order in this case. A voucher that conforms to the terms of this paragraph is sufficient authority for the Treasurer to make payment from income and/or principal of the Trust Funds directly to the indicated payees.
- e. Neither the funds in the Laconia State School Trust nor any distribution pursuant to this order is includable as the assets of any of the former residents for purposes of Medicaid benefits. See 42 U.S.C. § 1396p(d)(3)(B).

f. When there are no longer any surviving former residents of the Laconia State School, and until all Trust Funds have been depleted, each Area Agency may make requests using the process in (c) above for persons receiving services from the State Developmental Services system. In that circumstance, the Commissioner and the Treasurer may process requests and expend Trust Funds using the process in (d) above.

SO ORDERED.

Dated: March 9, 2018

  
Circuit Court Judge - 

**Margaret Ann Moran**

2018 MAR 29 PM 2:12  
STATE OF N.H.  
DEPT OF JUSTICE