

**SPECIAL MEETING WEDNESDAY, OCTOBER 22, 2014**

**4:00 PM**

**ORDER OF BUSINESS**

**Item**

1. **CALL TO ORDER BY DIRECTOR** at 4:02 p.m.
2. **ROLL CALL** Freeholder Crabb; Freeholder Graham; Freeholder Mudrick;  
Freeholder Phoebus; Freeholder Director Vohden;  
John Eskilson, County Administrator/Clerk; Dennis McConnell,  
County Counsel; Cathy Williams, Secretary to County  
Administrator
3. **MOMENT OF SILENT PRAYER AND SALUTE TO THE FLAG**
4. **PUBLIC STATEMENT**

"Pursuant to the Open Public Meetings Act, Chapter 231, P.L. 1975 Adequate Notice as defined by Section 3D of Chapter 231, P.L. 1975, has been made by regular mail, such notice being submitted on October 15, 2014 from the Administrative Center of the County of Sussex, located at One Spring Street, Newton, New Jersey to the following:

New Jersey Herald	WSUS Radio
New Jersey Sunday Herald	WNNJ Radio
Star Ledger	

and is also posted on the bulletin board maintained in the Administrative Center for public announcements and has been submitted to the Sussex County Clerk in compliance with said Act."

5. **HEARING**
  - A. Chargeback Hearing pursuant to N.J.A.C. 9A:4-1.4

Mr. McConnell said that at this time he would like to call forward Ms. Gilfillan on behalf of the Sussex County Community College (SCCC) and this has to do with a chargeback issue raised by the parent, Karen Berry, with regard to her son.

Ms. Gilfillan, if you could please give an overview to the Freeholder Board and present your presentation, if you don't mind.

My name is Katherine Gilfillan, I'm an attorney with the Law Firm of Schenck, Price, Smith and King and we represent the Sussex County Community College. We are here today pursuant to the regulation read to you relative to a chargeback. Essentially, for those who may have not of heard of this before, if a student goes out of County to a Community College and enrolls in a course of study or a program which Sussex County does not offer, then that student is entitled to a chargeback. Today, the issue in front of you is whether or not, Mr. Berry, the student is actually enrolled in a program of study that leads to a degree as defined in the regulation that Sussex County does not offer. It is the College's position that the courses that Mr. Berry has been enrolled in, or has enrolled in for this year, this semester, are all general education courses that are offered by Sussex County Community College and we do have some documentation and some testimony to provide to you today.

Ms. Gilfillan asked Mr. McConnell if he would care to have Mrs. Berry speak or would you care to have the College speak first.

Mr. McConnell asked Mrs. Berry if she would like to make an opening statement or put anything on the record before the College starts? Obviously, you are going to have a chance to ask any questions from the College participants you want and also you are allowed to provide your own testimony.

Mrs. Berry agreed to let the College go first.

Mr. McConnell advised Mrs. Berry that she would get her chance to ask any questions you deem appropriate.

Ms. Gilfillan called Ms. Debbie McFadden.

Mr. McConnell swore in Ms. McFadden.

Mr. McConnell asked Ms. McFadden to spell her last name.

M – c – F – a – d – d – e – n.

Mr. McConnell asked Ms. McFadden what was her position with the College.

Ms. McFadden responded that she was the Vice President of Student Affairs.

Ms. Gilfillan asked Ms. McFadden as the Vice President of Student Affairs, generally, what does your position entail?

Ms. McFadden replied that at this point, she oversees the Office of the Counseling and Advising Center which takes in the applications for chargeback.

Ms. Gilfillan asked Ms. McFadden prior to that, what positions did she hold.

Ms. McFadden replied that prior to this, she was Dean of Students and prior to that, the Director of the Counseling and Advising Center and then before, that a Counselor, so she has been involved with chargeback for a number of years.

Ms. Gilfillan asked Ms. McFadden to give the Freeholders a history of how chargebacks are handled at SCCC.

Ms. McFadden replied that there was a two-step process, per the law. One is that the program of study is an accepted program of study and we have a list of those. When an applicant comes in, they complete the form. If the program is accepted and the courses that the student is taking are actually in that program, we approve and sign off on the first form. Then we send them to the bursar, or business office, which seeks residency, so a license or some other form, to show residency in the County and they sign off that it's a County resident. The student then takes those forms back to the visiting college, and they bill us for the out-of-county difference.

Ms. Gilfillan asked Ms. McFadden if she was familiar with the student with the last name of Berry.

Ms. McFadden replied, yes.

Ms. Gilfillan asked Ms. McFadden if she was familiar with Mrs. Berry?

Ms. McFadden replied, yes.

Ms. Gilfillan asked Ms. McFadden if she had conversations, withdrawn.

Ms. Gilfillan asked Ms. McFadden if Mrs. Berry approached the College relative to a chargeback for her son?

Ms. McFadden replied, yes, they came into the Counseling and Advising Center and requested a chargeback, it was denied, and they asked to speak to someone higher up and they were sent over to my office. Ms. McFadden explained why they would deny the process that they were in and they left, at that point.

Ms. Gilfillan asked Ms. McFadden who many conversations did you have?

Ms. McFadden replied, just the one.

Ms. Gilfillan asked Ms. McFadden if they spoke to anyone else after you?

Ms. McFadden replied, yes, I believe they spoke to the Vice President of Academic Affairs.

Ms. Gilfillan asked Ms. McFadden to tell the Freeholders what program, to her understanding, was Mr. Berry enrolled in or was seeking to enroll.

Ms. McFadden replied, in the Radiography Program at County College of Morris (CCM).

Ms. Gilfillan asked Ms. McFadden if Sussex County Community College offers the Radiography Program?

Ms. McFadden replied, no.

Ms. Gilfillan asked Ms. McFadden why was their application was denied.

Ms. McFadden replied, that it is rather confusing sometimes to a student. The way that CCM allows students to come into that program is they come to the College, and any student can go in as that major, and then they have a two-step process at the end of their first year that a student must go through, and it's highly competitive and often based on grade point average as well as a number of other issues before they are accepted into the actual Radiography Program. I believe 32 students are accepted a year into that Program, so, in fact, most students who sign up to be in that, do not enter the Program and complete a degree in it.

Ms. Gilfillan asked Ms. McFadden, when the Berrys came to you, to ask about the chargeback, did you do any investigation into CCM's program?

Ms. McFadden replied, sure, we always review all of our majors against theirs, the courses involved and, in this particular case, we require a letter of acceptance into the Radiography Program because it is so specialized, so any student who is accepted in the second phase is then granted chargeback for all of their Radiography and any other Gen Ed courses that they need at that point, but until their actually accepted into the Program, we don't provide chargeback.

Ms. Gilfillan said, I'm going to show you what I have marked for identification C asked Mr. McConnell if he cared to see them.

Mr. McConnell replied that, yes, he wanted to see them and asked for one for Mrs. Berry.

Ms. Gilfillan asked Ms. McFadden to tell the Board what that document is.

Ms. McFadden explained that this is their program overview. It provides the curriculum, the requirements for the program for the Radiography degree to be completed at the County College of Morris.

Ms. Gilfillan asked Ms. McFadden to turn to the last page of that brochure and asked Ms. McFadden to tell the Board what classes, specifically, that Mr. Berry was going to be enrolled in for this semester.

Ms. McFadden said that she didn't know the specific courses that he was enrolling in, but she could tell you that they were not the Radiography courses, so they would have been the General Education courses such as English Comp I and II, Microcomputers Software Applications, General Psyche, A&P I and II or Speech Fundamentals. All of which are offered at Sussex County Community College.

Ms. Gilfillan said that she was going to show what she had marked for identification as the C2.

Ms. Gilfillan asked Ms. McFadden to tell the Freeholders what that document was.

Ms. McFadden said that document is a list of SCCC courses and programs.

Ms. Gilfillan asked Ms. McFadden if all of the programs are, in the Gen Ed portion of the Radiography Program at CCM, listed in the Sussex County Community College program for this semester?

Ms. McFadden replied, they are.

Ms. Gilfillan told Ms. McFadden that she was going to draw her attention to Page 13, that lists the Psychology. You'll see in CCM's brochure that there is a requirement for a General Psychology class and she doesn't see a General Psychology class listed in Sussex. Can you tell us, is there a similar or same class, and how do you determine that?

Ms. McFadden replied that the same class is Psyche 101 Introduction to Psychology, it's just a matter of semantics, the State compares based on course descriptions, what's covered in the course and it's an equivalent course, so their General Psyche and our Intro to Psyche are the same course, an entry level course into Psychology.

Ms. Gilfillan passed C3 to Ms. McFadden and asked her to identify it.

Ms. McFadden replied that this was the packet that's given to students for chargeback. It's forms that they need to have completed and signed by the College to bring back to their own College.

Ms. Gilfillan asked Ms. McFadden to go to Step 1 on that application. It indicates that a student must provide a letter indicating acceptance into a specialized program.

Ms. McFadden replied, yes.

Ms. Gilfillan asked Ms. McFadden what it meant in this particular scenario relative to the Radiography Program?

Ms. McFadden said this would mean acceptance into the professional phase of the Program beyond the Gen Ed requirements and those students are considered Radiography Majors.

Ms. Gilfillan asked Ms. McFadden if Mrs. Berry provided that letter to the College?

Ms. McFadden replied, no, her son has not been accepted as yet into that program. And, once he would be accepted, we would certainly pay the chargeback for those courses.

Ms. Gilfillan asked Ms. McFadden why that requirement is included in this form?

Ms. McFadden replied that she thinks it is confusing again for students because they believe they are enrolled in that Program, when in fact, they are not enrolled in it, they are pre-Radiography. It's unfortunate that they do that way. Other schools, in fact, Essex County offers that. They tell all applicants, you come in as a Science Major, and then once you are accepted through the Professional phase, you become a Radiography Major. Burlington County College has it; they tell students you must come in, in another degree, and then you go into the Radiography Program once you complete.

Ms. Gilfillan asked Ms. McFadden if Sussex engages in a similar type of practice?

Ms. McFadden replied that probably the most similar we would have, would be the Nursing Program. We might have 250 students that come to us and say they're interested in the Nursing Program, so they go into our docket as Liberal Arts Pre-Nursing because we take 20 students a year in that Program of that 250, so this allows those remaining students to know that they can work towards a Liberal Arts Degree with the credits that they've accumulated, if they don't get into the program and it gives them the opportunity to move forward on a degree.

Ms. Gilfillan said she was going to show Ms. McFadden what she marked as C4.

Ms. Gilfillan asked Ms. McFadden to explain what that document is.

Ms. McFadden said that document was the list of courses at County College of Morris other than the Gen Eds that are required for that degree and they all have a prerequisite of admission to the Professional Phase of the Radiography Program.

Ms. Gilfillan asked Ms. McFadden when she said they have a prerequisite, is that included in this?

Ms. McFadden replied, yes each one has it.

Ms. Gilfillan asked Ms. McFadden to her knowledge, where is this information found?

Ms. McFadden replied, on the website at CCM.

Ms. Gilfillan asked Ms. McFadden if to her, does that indicate that the student is not actually enrolled in the Program until they have met, until they are accepted, into the Program?

Ms. McFadden replied, correct, for example, we, last Spring, had 12 Sussex County residents enrolled in the Professional Phase of Radiography, so thus eligible for chargeback. Of those 12, I believe, five or six had done all of their prerequisites at Sussex County Community College, and been accepted into that Program and were covering the other courses. The students that did not, either came from other transfer schools, maybe a four year school and applied or they paid the out-of-county difference at CCM until they were enrolled in the Program.

Ms. Gilfillan asked Ms. McFadden, for the Radiography Program at CCM, is there anything prohibiting transfer students into that Program?

Ms. McFadden replied, not at all, no, there's no requirement on that.

Ms. Gilfillan asked Ms. McFadden if she were aware of approximately how many students CCM accepts into that final Radiography Program a year?

Ms. McFadden replied that she believed it was 32 students per year.

Ms. Gilfillan asked Ms. McFadden if there was anything prohibiting a student from merely listing Radiography as their Major, but not continuing into that Program? Either dropping the Program or changing Majors?

Ms. McFadden replied, no, that's one of the reasons we have the specialized letter because a student can just go there and say they are a Radiography Major and take Gen Ed courses and never enter the Program and we'd be paying for Gen Ed courses and they'd be going into another program.

Ms. Gilfillan asked Ms. McFadden, just to the Gen Ed courses for a moment; I recognize on the CCM document for Radiography, Anatomy and Physiology are one of the courses that has to be taken.

Ms. McFadden said this is a very tough course.

Ms. Gilfillan said, and she guesses her point is, if the student fails that class, is there anything prohibiting the child from again enrolling in that class and asking for the chargeback, again?

Ms. McFadden replied, no, we wouldn't even know that they failed it.

Ms. Gilfillan asked Ms. McFadden if they would be responsible for paying it, correct?

Ms. McFadden replied, if it were allowed, yes.

Ms. Gilfillan asked Ms. McFadden if she advised Mrs. Berry that her son might be eligible for the chargeback once he was accepted into the Radiography . . .

Ms. McFadden replied, yes.

Ms. Gilfillan asked Ms. McFadden what Mrs. Berry's response was.

Ms. McFadden replied, that basically, she indicated that she and her son wanted him to go to County College of Morris, not here, and that he had friends there, and it was closer to home, and they wanted to attend there.

Ms. Gilfillan asked Ms. McFadden if she had any other conversations with her?

Ms. McFadden replied, no.

Ms. Gilfillan said that was the limit of her testimony with Ms. McFadden. She does have for the Freeholders a commentary to the regulatory provisions that she does want to comment on; however, if the Board would like Mrs. Berry to have an opportunity for cross examination at this time?

Mr. McConnell said they were going to let Mrs. Berry question first, then the Freeholders will have their opportunity to ask their pertinent questions.

Mr. McConnell asked Mrs. Berry if she would like to approach and ask any questions of Ms. McFadden, or your son, or anyone of you?

Mrs. Berry said it is not really a matter of questions, it's the paperwork that I was given.

Mr. McConnell asked Mrs. Berry to come forward and speak into the microphone.

Mrs. Berry said when she went to the Sussex County College, I really had no indication that there was even a chance it would be denied. Morris County College signed all the paperwork.

Mr. McConnell advised Mrs. Berry that they would get to her testimony, separately, but if there were any questions she had of Ms. McFadden or any statements you want to get clarified from her, you are more than welcome to do so. She's going to call another witness, I believe, is that correct?

Ms. Gilfillan replied, no.

Mr. McConnell stated that this was the only witness and if Mrs. Berry had any questions of Ms. McFadden at this time, you are at liberty to ask the questions. You are going to have the opportunity to give your side of the story and if your son wants to get sworn-in, you have that perfect opportunity, but we do this in sections.

Mrs. Berry replied that she didn't have any questions.

Mr. Berry came forward and said he had a question. Mr. Berry asked Ms. McFadden, as a matter of principle, does she get this often from CCM parents?

Ms. McFadden replied, often, no, but in the specialized programs we do on occasion have students question why.

Mr. Berry said that is part of our problem. CCM is saying we are the only County in the State that doesn't do this. That's from them. Now, that's what I am going by. They hand us a regulation and a law and said to go back and try. Because, again, we are the only County that doesn't do this. That's what I was told by CCM and more than even getting for myself, it might be nice for the next time for you to have a paper to go, here is what the Sussex County Board of Freeholders have decided, it is a law now or it's an ordinance. Because somebody else has to be wasting a lot of time on your end, by my wife, and wasting time at CCM and it's going to go back and forth until somebody says yes or no.

Freeholder Crabb said that for clarity, what is it that Sussex County is the only County that doesn't do.

Mrs. Berry said that this was the information that was given from Dr. Simmons.

Freeholder Crabb asked, doesn't do what?

Mrs. Berry replied, that does not improve the chargeback.

Mr. Berry continued, on this Program from the get go.

Freeholder Crabb replied, okay.

Mr. Berry said, so we go to Sussex and say this is what we were told by CCM, and rightfully so, you would say, well we don't do this, we go back to CCM and they go . . .

Mrs. Berry said , that they advised her to pursue this with the Freeholder Board because, they said, all the other Counties do approve it. That they are misinterpreting the statute or the law, whatever it is called.

Ms. Gilfillan said to Ms. McFadden, that she provided Ms. Gilfillan, earlier today, with a letter dated July 30<sup>th</sup>, 2014 from the Vice President of Student Development at CCM.

Ms. McFadden replied, correct.

Ms. Gilfillan said, to the County Administrator, here, correct?

Ms. McFadden replied, correct.

Ms. Gilfillan asked Ms. McFadden to take a look at the letter, and Ms. Gilfillan was going to mark it as C6, and asked Ms. McFadden to take a look at it.

Ms. Gilfillan asked Ms. McFadden if she recognized the document?

Ms. McFadden replied, yes, she did.

Ms. Gilfillan asked Ms. McFadden what it was?

Ms. McFadden replied, that this was a letter, as you indicated from the Vice President at CCM and what she is indicating is the following Counties authorize chargebacks for their residents taking courses at County College of Morris. It doesn't say specifically to Radiography, in fact, many of the schools on here have their own Radiography Program so they wouldn't be doing that, but they're saying for a chargeback at CCM. We, of course, do chargeback program at CCM. A large chargeback program.

Ms. Gilfillan asked Ms. McFadden if, in her opinion, does that correspondence state that Sussex Community College is the only college that doesn't provide a chargeback for this particular program?

Ms. McFadden replied, no, I don't see that in this letter.

Ms. Gilfillan told Mr. McConnell that she was finished with the testimony of this witness. She said she had a slight closing statement and she also had for the Counsel, a provision of the regulations, the history of the regulations, that she would like to hand out at this time.

Ms. Gilfillan said that what she handed out, and she has marked it as C5. She said that she had the entirety of this provision, if in case, the Freeholders would like to see it. However, when the Commission of Higher Education readopted these regulations, they specifically, when they put them out for public comment, this scenario was actually posed to them by the President of Warren Community College.

Ms. Gilfillan continued, specifically, I am referring to the first comment and response that you have on your page which discusses the actual splitting of eligibility of chargebacks in recognition of specialized programs where, in fact, there is authority in the present regulations where it discusses remedial classes that have to be taken in the home community

college and the reason I would submit to the Freeholders is that provides for exactly this scenario where, in fact, there is nothing specialized about the programs that the student is taking and which are available in Sussex County at the College for a cost lower to the taxpayer than if, in fact, these students went out to a surrounding community college. That would conclude our testimony at this point.

Mr. McConnell asked Mrs. And Mr. Berry if they had any questions regarding the additional statements.

Mr. McConnell asked if the Board had any questions of Ms. McFadden.

Freeholder Crabb said he had a question and asked Ms. McFadden if he heard in her testimony that you said you have had students that have taken prerequisite courses at Sussex County Community College before being accepted into Radiography at Morris County?

Ms. McFadden replied, yes.

Freeholder Crabb said that he heard from her testimony that the comments that Mrs. Berry made to you was that they were taking these courses at Morris County Community College because her son had friends there and because it was closer to home?

Ms. McFadden replied, as I recall, I mean he was, which he indicated was he planned to major in this and that he wanted to go to CCM and that was closer to home and that was where his friends were, yes.

Freeholder Crabb asked, but the program for Radiography was offered there, but equivalent courses for the prerequisite courses were being offered at the local community college.

Ms. McFadden replied, correct.

Freeholder Crabb said, and the difference being is if the courses are chosen to be taken down at Morris County Community College the difference for the out-of-town rate would be borne by the local community college and the reasons that the course, well, I would have to ask Mrs. Berry . . . . .

Several people talking at once.

Mr. McConnell asked everyone to hold on and advised Freeholder Crabb he could ask his question.

Freeholder Crabb continued and asked that the reason that Mr. and Mrs. Berry's son went to take the course at Morris County Community College, is that's where the program was?

Mr. McConnell explained that the question was directed at Ms. McFadden and he advised Ms. McFadden that she had to answer the question.

Ms. McFadden replied, so what you are asking is, did they indicate to me, that they were planning to go to County College of Morris?

Freeholder Crabb replied, correct, yes.

Ms. McFadden replied, yes, and did they indicate, as I recall, yes, while he was majoring in that, they did not want to come to our College for prerequisite courses, that it was closer to home and he had friends there and wanted to do it there.

Freeholder Crabb said if at all, the questions he would have would be after Mrs. Berry's testimony.

Freeholder Phoebus asked, if this particular course is only offered at Morris County Community College, does Morris County Community College feel that if their basic courses are taken at another college, and that they don't count as much to get into this.

Ms. McFadden replied, not at all.

Freeholder Phoebus continued, so our courses that we offer here are basic courses, are equal to and they're considered on equal level?

Ms. McFadden replied, correct, and, as I indicated, we have 12 County residents.

Mr. Eskilson said, as a point of clarification, Freeholder Crabb, the costs are not borne by the County College for chargebacks, they are borne directly out of the County budget.

Freeholder Crabb asked, out of the Sussex County budget?

Mr. Eskilson replied, there's a direct line item of approximately \$250,000.00 which, on submission to the County Treasurer, are paid. Not the Community College budget.

Freeholder Graham said, this has to do with the splitting, does this course require the Gen Ed core to be blended with Radiography core, in other words, I'm seeing 20 credits that are required for the Gen Ed.

Ms. McFadden replied, for admission into the . . .

Freeholder Graham continued, into the course itself. So, this has to be completed in the first year or whatever it's done.

Ms. McFadden replied, right.

Freeholder Graham asked, so we are not asking a student to take a course that they have to take a course in the morning up here, and then go down to CCM in the afternoon?

Ms. McFadden replied, not at all, no.

Freeholder Graham asked, and do it that way?

Ms. McFadden replied, no, in fact, that is prohibited by the law, you know, we would have to allow them to do a student in a chargeback program, all courses, so if I can use end as an example, we don't have a music program, so a student accepted into the music program at County College of Morris, has music courses and then their Gen Eds, English, History, Psychology, Sociology and they take them all there.

Ms. Gilfillan said, if she could just clarify, as to the Radiography Program, actually, in C1, if you go to that last page, under the Radiography Core, you'll see a Speech Fundamentals class. Ms. McFadden does Sussex offer that?

Ms. McFadden replied, offer that, yes, we also offer that, so there would be 23 credits that a student could take to transfer in and, in fact, many of the current students doing chargeback have done that.

Ms. Gilfillan asked, if the student was enrolled, however, in the Radiography Program, and took that Communication Program, that Speech Communication Program, that would be something that Sussex would pay for even though we do have that same course offered at the College?

Ms. McFadden replied, yes, because they can take that with their Radiography Courses, the other courses, they do not.

Freeholder Graham asked, so they would take the 23 credits of the core up here, and then the other 45 credits would then be available for chargeback?

Ms. McFadden replied, correct.

Freeholder Graham said, and that's how the policy stands right now?

Freeholder Vohden said, and that would be depending on whether they got accepted into that group of 32?

Ms. McFadden replied, into that program, highly competitive program.

Freeholder Graham thanked Ms. McFadden.

Freeholder Mudrick said, Mrs. Berry said, if I understood correctly, that she was told by County College of Morris that Sussex County was the only County College in the State that doesn't honor the chargeback in kind of case, yet, you said in general terms when asked by Counsel for the College, if I understood correctly, stop me if I am wrong please, that you didn't see it that way based on C6.

Ms. McFadden replied, correct.

Freeholder Mudrick continued, and, I don't either because I see 10 County Colleges listed here . . .

Ms. McFadden said, half of whom have their own Radiography Program so they wouldn't do a chargeback for Radiography. I think they are just saying these are schools that are doing chargebacks with us in general.

Freeholder Mudrick asked, so is it fair to say that County College of Morris gave Mrs. Berry misinformation in telling her that Sussex County Community College is the only College in the State that doesn't?

Ms. McFadden replied, that it sounds that way to her.

Freeholder Mudrick thanked Ms. McFadden.

Mr. McConnell asked Ms. Gilfillan if she had anything else.

Ms. Gilfillan replied, no sir.

Mr. McConnell asked Mr. & Mrs. Berry if they had any questions for Ms. McFadden.

Mrs. Berry replied, no.

Mr. Berry said he had one quick question, do you supply CCM with a letter on the courses that you will not give chargebacks to until . . .

Ms. McFadden replied, we have in the past, yes, we . . .

Mr. Berry asked for a copy of them.

Ms. McFadden replied, yes, sure.

Mr. Berry said, here again, that's the problem that we are having.

Ms. McFadden said, that's on file.

Mr. Berry continued, so Admissions says, this should be covered.

Ms. McFadden replied, right.

Mr. Berry said, now if you're telling rather there's a letter on file somewhere, I don't know why they would keep doing then.

Ms. McFadden replied, we have a list right Counseling Center, right in the folder, and it has acceptable majors and non-acceptable majors for chargeback.

Mr. Berry asked, do we know if CCM ever received a copy of that?

Ms. McFadden replied, I believe they requested one a few years ago, we don't, on a consistent basis send it to them.

Mr. Berry said, that's maybe what I'm getting at, this is why the problem, we're being told one thing and maybe it would pay to have, each year, a list that one is going to be supporting, not because technology keeps changing, you know, this course might be . . .

Ms. McFadden replied, yes, we actually update it every year, yes.

Mr. Berry continued, rather than going through something like this every time the question comes up. That's what I'm trying to get accomplished here.

Ms. McFadden replied, good point.

Freeholder Crabb stated that he one quick follow-up. Did he hear testimony to that if Mr. Berry's son completes this course and is accepted into the Radiography Program, that the County College, that they would approve chargebacks for even these prerequisite courses that were taken, am I correct?

Ms. McFadden replied, no, we typically only do them for what they, once the point . . .

Freeholder Crabb said, from the point of program entry on?

Ms. McFadden replied, yes.

Freeholder Crabb thanked Ms. McFadden and said that was all he had.

Mr. McConnell called Mr. & Mrs. Berry forward and asked Mr. Berry if he was going to give testimony.

Mr. Berry replied, just a quick one about the same thing.

Mr. McConnell asked Mr. & Mrs. Berry to raise their right hands and Mr. McConnell swore-in Mr. & Mrs. Berry.

Mr. McConnell asked that Berrys to state their names, one at a time.

Mrs. Berry replied, Karen Berry.

Mr. Berry replied, Richard Berry.

Mr. McConnell asked for their residence.

Mrs. Berry replied, 124 Rawlings Trail, Hopatcong, NJ.

Mr. McConnell asked, and you are the parents of?

Mrs. Berry replied, Brian Berry.

Mr. McConnell thanked the Berrys.

Mrs. Berry asked, where is it that you would like me to begin.

Mr. McConnell stated, that you have the dilemma with Morris County Community College.

Mrs. Berry replied, right.

Mr. McConnell continued, you're trying to get your son into the Radiography Program and they told you a set of circumstances that, I believe, say that if he doesn't take these Gen Eds at their County College, he's not going to qualify, I think that's what you indicated.

Mrs. Berry said, no, they never told me that he wouldn't qualify for it, but they really would like you to take them there, obviously, you're going to be going from their Gen Ed courses into their program. I was never informed that I should be seeking my own County for these Gen Ed courses. I was given the information about the chargeback, printed out, to bring it to Sussex County College. They signed off on the Declaration of Major page and all the other information that was needed from the County College of Morris before I came for the chargeback approval. When I was denied and spoke to Dr. McFadden, I went back to the County College of Morris, spoke to Dr. Simmons and she said this is common, that the Sussex County College often denies it and that I should pursue it, other Counties approve it, and she doesn't understand why, and she seemed to feel that they are misinterpreting the Statute, the law, I don't know what it's really called because it does state here that all courses necessary to satisfy the requirements of such a program of study shall be approved whether any portion of that course work is offered at the student's home community college.

Mr. McConnell asked Mrs. Berry, could you show me what you just read from, please?

Mrs. Berry replied, yes.

Mr. McConnell asked, okay and what you just read from, was this section here?

**THERE WAS A VERY LOUD NOISE AND VOICES WERE BLOCKED OUT.**

Mr. McConnell said, what she is referring to and I will read it into the record, and this is again, a section of the . . . what I actually handed out to the Freeholder Board before. What they gave you is fine and it's accurate, but what they did, which threw me a little bit, they had a section down here which is Section 9A4-13, this is a section of the Administrative Code, the next page they gave you, is not from the Administrative Code, it's from a State Statute.

Mrs. Berry replied, that was given to me by Dr. McFadden.

Mr. McConnell said, okay, but this is part of State Statute, you don't have the first page of that. But, that's fine, because, indeed, I have previously distributed to the Freeholder Board this same section of the law and this is part of the Statute known as **N.J.S.A.** 18A:64A-23 and this is a document I previously gave to the Freeholder Board and on the second page, thereof, there is a Section C which I have highlighted and I am going to read that into the record, and it says:

“Section C – A student attending an out-of-county community college on a chargeback basis because the home community college does not offer a particular program of study shall be permitted to register for and attend on a chargeback basis all courses necessary to satisfy the requirements of such a program of study. This requirement shall apply whether or not any portion of the course work is offered at the student's home community college.”

Mr. McConnell continued, the Freeholder Board does have a copy of this so they have read all that, so I just want to make sure you are aware of that. And, this is what Morris County Community College did, in fact, give you?

Mrs. Berry replied, yes.

Mr. McConnell continued, and also, there's another section of the law they provided to you and you have a highlight around that, but this talks about remedial courses, and I will read it into the record. This is a section of the Administrative Code known as 9A4-1.3, Subsection G, and it states:

“Students required to enroll in remedial courses in two or more basic skills areas as determined by the receiving institutional placement test shall complete the remediation in a home community college before enrolling in a course or program of study on a chargeback basis at an out-of-county institution.”

Mr. McConnell continued, so those are the two sections that are highlighted in here and I just read them into the record. The Freeholder Board does have that one section and I have highlighted that for them. So, I'm going to give this back to you and also, Ms. Gilfillan has had those, give it to her as well.

Mrs. Berry said, okay, well, that is where my confusion lies. I don't know. I've gotten a bad vibe, I don't know how to explain that. When I met with Dr. McFadden, she was very dismissive, and it was made to seem that Morris County College thinks, in her words "have it made" that they can just send anyone up here and that we're supposed to provide a chargeback and we don't really do that. Mrs. Berry gave personal reasons for why her son wanted to go to County College of Morris.

Mr. Berry also gave his personal reasons as to why his son wanted to go into this Program.

Mr. Berry then said, all this other nonsense started when Morris said it's covered; Sussex says it's not. If you'll give me a letter that says it's not, I'll pay it. I might want to do that anyway, but, I don't want to have to do this next year and the following year and I'm sure you don't want to read these laws again for the next irate parent that comes in here.

Mrs. Berry said, that they have sent other parents to pursue this. They didn't really have any record of the outcome of it; that I was not the first person that they encouraged to pursue the chargeback because they feel that the County of Sussex does not interpret this statute correctly.

Mr. Berry added, or the Administration of the school and that's it; have you had any other instances of parents being here to ask you about this?

Mr. McConnell replied, we've had other situations, but they have been resolved before there was a full hearing on this particular issue. I believe we had, I think we made one determination.

Mr. Eskilson said, two in the past ten years that he recalled.

Freeholder Crabb said, one in the last couple of years.

Mr. Eskilson said, and one that was settled after the meeting before a decision was made.

Mr. McConnell said, and it may not have been the exact criteria that you have with them.

Mr. McConnell asked, if there was anything else they wanted to add, does your son want to say anything, if he does, he is more than welcome.

Freeholder Phoebus asked, what year is your son?

Mrs. Berry replied, he's a Freshman.

Freeholder Phoebus asked, when you met with Morris County, did they indicate to you that he would have a better chance of getting into this Program if he did take his basic courses at Morris County?

Mrs. Berry replied, no.

Freeholder Graham said, I appreciate your civility and professionalism. I'm sure there's a certain frustration level that takes everybody to this particular point and the two of you are quite civil.

Freeholder Mudrick said, I want to go back to the question I asked Dr. McFadden, do you recall, Mrs. Berry, that the individual, was it Dr. Simmons from CCM who told you that Sussex County Community College was the only College in the State that doesn't honor the chargeback? It was this Dr. Simmons? Yet, her letter contradicts what she told you verbally, what she put in writing.

Mrs. Berry replied, yea, I, I . . .

Freeholder Mudrick continued, I mean, I'm just saying, I mean it must . . .

Mrs. Berry said, she did not send me a copy of that.

Freeholder Mudrick said, yes, in other words, she, Dr. Simmons from CCM told you something, but put in writing something contrary to that, unless I'm missing something.

Mr. Berry said, we've asked, could you give us a letter to that affect?

Mrs. Berry said, yes.

### **SEVERAL PEOPLE SPEAKING AT THE SAME TIME.**

Mrs. Berry said, she said that she would contact, I believe I gave her Mr. Eskilson's information.

Mr. Eskilson said, I don't believe she ever contacted the office.

Freeholder Mudrick thanked everyone.

Mrs. Berry said, you know, that we would contact the Freeholder Board, and she said she would send whatever information was needed.

Mr. Berry said, had it been mailed to us prior to this, I said, well some of my arguments gone that I was told we're the only County that does.

Mr. Eskilson said, at the time and receipt of that letter, the chargeback issue was not before anyone, but it was a cold letter. Subsequent to that, we spoke on the phone.

Freeholder Crabb said, he would like to salute Brian, I mean, radiography is certainly not a course that you just slide into at random. It says a lot about Brian and also says a lot about you for supporting him on this. I think that we're kind of caught between a rock and a hard place here because as you were reading that last statute, it's a bit contradictory because the one statute says that any courses within the program even if there's partial courses offered at the local one, need to be paid by chargeback. I would ask, we're not lawyers, I would have a question as to say what are program course works, and do they count the prerequisites? I'm also reading the second part of that statute that you read, that we weren't distributed, that said that any of the remedial courses, two or more, or two, are required to be taken at the local college. And, I think, the reason for that is because Morris County, I'm sure they are going to encourage you to take the prerequisite courses there because they're going to get out-of-county rates.

Freeholder Crabb continued, they're going to tell you, but don't worry about it because the difference will be paid by the County of Sussex which is all of us. Because the County doesn't have money. The County gets all their money from everybody sitting here. It's a difficult situation and I know that as we deliberate this afterwards, we are going to have to get clarity as to the first part that Counsel copied off to us as to program courses, what does that mean? Does that mean the Radiography program or does that mean the Radiography program and everything else that has to lead up to it.

Mrs. Berry said, you can't go into the Radiography Program without taking the General Education courses.

Freeholder Crabb continued, and to get clarity as far as what that passage goes, to say that it needs to be paid, whether or not that the local college offers it and the second passage that you read that says, well the remediate courses really need to be taken locally. I feel for you guys.

Mrs. Berry said, that is not really a remedial course though, not to my knowledge, right?

Freeholder Crabb said, I'm sitting here not even knowing what remedial means.

Mrs. Berry said, he did have to take a remedial math class which they told me when I registered at Morris County College would not be included on the chargeback. They did tell me that.

Freeholder Crabb said, I think there's no one sitting here that wants to get in the way of the success of your son and we just need clarity on that because now that it's come to a hearing and that this wasn't settled before that it came here. Whatever decision is going to be made is certainly going to be referred to ongoing. And, that's a difficult situation we're in.

Mrs. Berry said, yea, it really, you know, it just needs to be reworded. I would not have come here reading that saying that it needs to be paid whether it's offered or not which is the only reason why I even pursued it as far as I did.

Freeholder Crabb thanked Mrs. Berry.

Freeholder Vohden said, this would be easy if Brian were already enrolled in a program, it would be simple, but my question is . . . let me read from this:

"The following Counties authorize chargebacks for the residents taking all courses of County College of Morris as long as the students are enrolled in programs of study not offered at the home community college."

Freeholder Vohden asked, was Brian enrolled in any course, this past year, that's not offered at the Sussex County Community College?

Mrs. Berry replied, not to my knowledge, they're just general education courses.

Freeholder Vohden said, and he would be, if he were enrolled in the Radiography, these are the courses. If he were doing it at the same time, like with nursing or these others, it would be acceptable when there's the chance that 32 out of 100 and some, you may not get in there.

There was a short discussion.

Ms. Gilfillan and the Board of Chosen Freeholders had no more questions.

Mr. McConnell said, the Board has the right to sit here now discuss this issue in Open Session and come up with a decision where you've been supplied with a lot of information and documentation and we can have a Closed Session later to come up and review this and then come out and make a decision. I would recommend that's probably the best course of action and I would suggest to do that since we want this done as soon as possible so maybe before the next Freeholder Meeting, if we could meet at 4:00 or 4:30 and have another special meeting, go into Closed Session, to discuss this issue and come out with a determination.

**MOTION** made by Freeholder Graham to convene a Special Meeting before the next Freeholder Meeting to go into Closed Session to discuss this issue and come out with a determination, seconded by Freeholder Crabb.

Freeholder Phoebus said, there seems to be communication issue between these two Colleges that is concerning to her.

On Roll Call the vote was:

Freeholder Crabb	Yes
Freeholder Graham	Yes
Freeholder Mudrick	Yes
Freeholder Phoebus	Yes
Freeholder Director Vohden	Yes

Mr. McConnell said, that the next Freeholder Meeting is scheduled for November 12, 2014, so at 4:00 p.m. before the Regular Meeting we are going to have a Closed Session to come up and make a determination and the determination will be disclosed to the public shortly thereafter. You are invited to attend if you so desire and in the meantime, if there's anything that you think that you missed, you can send it to me and I'll take it under advisement whether the Board gets to see it. If I do decide it should be submitted, I would obviously send it to Ms. Gilfillan first, before any of the Board members see it. She will have the right to object and vice versa, if you have anything additional, it would go through me, get it to the Berrys, and then we'd make a decision. We want to keep this open and not hide anything here if there's additional information that you want to submit. We've got to keep it open because we do have the next two weeks.

Mr. McConnell asked, does anybody have any questions on our process?

There were no questions.

## **6. ADJOURNMENT**

**MOTION** made at 4:55 p.m. by Freeholder Crabb to close these proceedings, seconded by Freeholder Graham and passed unanimously.

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John H. Eskilson, Clerk

**DATED:      OCTOBER 22, 2014**