

ALABAMA TAX TRIBUNAL

RACHEL WILLIAMS, §
Taxpayer, § DOCKET NO. INC. 22-719-JP
v. §
STATE OF ALABAMA §
DEPARTMENT OF REVENUE.

OPINION AND FINAL ORDER

This appeal involves a final assessment of 2020 income tax concerning the Taxpayer’s claiming of the school transfer credit pursuant to the Alabama Accountability Act of 2013, as amended (“the Act”). A video trial was held on April 3, 2024. The Taxpayer appeared and testified. Sarah Harwell represented the Revenue Department, and Lakeshia Coty, the Revenue Department’s auditor, appeared and testified. After the trial, a series of preliminary orders were issued by the Tax Tribunal to determine whether the Taxpayer’s son had been assigned to or had attended a failing school for the 2016-2017 school year that would qualify the Taxpayer for the Act’s school transfer credit. Ultimately, the issue is whether the Taxpayer’s son was assigned to or attended either Avondale Elementary School (“Avondale”)¹ or W. E. Putnam Middle School (“Putnam”)² before transferring to the Altamont School (“Altamont”) for the 2016-2017 school year.

The Alabama Accountability Act of 2013 was passed for the express purpose of “advanc[ing] the benefits of local school and school system autonomy in innovation

¹ As discussed in more detail *infra*, Avondale was not a failing school under the ACA in 2016.

² As discussed in more detail *infra*, Putnam was a failing school under the ACA in 2016.

and creativity by allowing flexibility from state laws, regulations, and policies.” Ala. Code § 16-6D-2(b). The Act seeks to address “a critical need for innovative models of public education . . . tailored to the unique circumstances and needs of the students in all schools and communities” by allowing school systems greater flexibility as well as by giving “greater individual school autonomy and managerial flexibility[,]” and enabling parents to “explore flexible alternatives[.]” Ala. Code § 16-6D-3(a)(2) to (3), (b)(1) to (2). The Act provides “financial assistance through an income tax credit to a parent who transfers a student from a priority public school to a qualifying public school or nonpublic school of the parent's choice.” Ala. Code § 16-6D-3(b)(4). *See also* Ala. Code § 16-6D-8. Beginning on January 1, 2013, the Act allotted a parent an income tax credit (“the School Transfer Credit” or “the Credit”) to help offset the cost of transferring his or her child from a low-performing priority school to a qualifying public or nonpublic school of the parent's choice. Ala. Code § 16-6D-8(a)(1), (b)(1). The Act also afforded the Revenue Department the authority to promulgate reasonable rules to effectuate the intent of the Act’s allotment of the tax credit. Ala. Code § 16-6D-8(a)(4).

The corresponding rule promulgated by the Revenue Department is found at Ala. Admin. Code r. 810-3-60-.01 (hereinafter “the Rule”). The Rule states that its purpose is “to provide guidance to parents with students enrolled in or assigned to attend a failing school who may be eligible for a refundable income tax credit to offset the costs of transferring a student to a non-failing public school or nonpublic school of the parent's choice.” Ala. Admin. Code r. 810-3-60-.01(1). The Rule then defines

an eligible student as one “who receives written notification from his or her local school system that the student is assigned to attend or enrolled in a failing public school.” Ala. Admin. Code r. 810-3-60-.01(2)(a). Further, to be eligible for the Tax Credit, the Rule requires the satisfaction of all of the following four elements:

- (a) Parent claims the eligible student as a dependent on his or her Alabama income tax return;
- (b) Student is enrolled in or assigned to attend a failing school and receives notification from the local school system that he or she is assigned or enrolled in a failing school;
- (c) Parent chooses to transfer the student from the failing school to a non-failing public school or nonpublic school; and
- (d) Parent incurs creditable costs related to the transfer of the eligible student.

Ala. Admin. Code r. 810-3-60-.01(3). As stated, the issue here is whether the second and third elements of Ala. Admin. Code r. 810-3-60-.01(3) were satisfied by the Taxpayer transferring her son from a failing school to a non-failing school.

The Taxpayer claims that she transferred her son from Putnam to Altamont in August of 2016, and that Putnam was a “persistently low performing school,” such that it would qualify as a failing school under the ACA for any year. In response to the Tax Tribunal’s Preliminary Order issued on November 7, 2022, the Taxpayer provided documentation evidencing that she began paying tuition to Altamont in September of 2016. The Taxpayer then provided similar documentation in response to the Tax Tribunal’s April 3, 2024, Post-Trial Preliminary Order; however, this documentation reflected that the Taxpayer paid tuition to Altamont from August of 2016 to May of 2017. With her response to the Tax Tribunal’s Fifth Post-Trial

Preliminary Order, the Taxpayer provided a letter verifying her son's enrollment at Altamont for the 2016-2017 school year. Finally, the Taxpayer stated in response to the Tax Tribunal's Sixth Post-Trial Preliminary Order that her son "was assigned to/zoned for [Birmingham] city schools (Putnam middle school). My son was 12 years old [and] the address he lived at full time is proof of that assignment."

The Revenue Department has argued throughout this appeal that the Taxpayer actually transferred her son from Avondale to Altamont in 2016, and that Avondale was not a failing school in that year (or in any other year). The basis of the Revenue Department's argument is that the Taxpayer's son would have been in the fifth grade in the 2016-2017 school year, but that Putnam serves only grades six through eight, whereas Avondale serves students in kindergarten through the fifth grade. To support this argument, the Revenue Department points to records from Avondale Elementary School for the Taxpayer's son, which the Taxpayer had provided to the Department during this appeal. These records show that the Taxpayer's son was enrolled in the third grade at Avondale for the 2014-2015 school year, enrolled in the fourth grade at Avondale for the 2015-2016 school year, and was a "no show" at Avondale for the 2016-2017 school year. The Revenue Department also provided the annual "Failing Schools as Defined by the Alabama Accountability Act" lists issued for the years 2015, 2016, and 2017. Notably, Putnam Magnet School is included on the lists issued for 2015 and 2016 but not 2017, and Avondale does not appear on any of the lists. Finally, the Revenue Department provided a school zoning determination utilizing the SchoolSearch function from the Birmingham City

Schools' website, which showed that the Taxpayer's 2016 address was zoned for Avondale Elementary, then Putnam Middle School, and then Woodlawn High School.

Section 40-2A-7(b)(5)c.3, Ala. Code 1975, states the following: "On appeal . . . to the Alabama Tax Tribunal, the final assessment shall be prima facie correct, and the burden of proof shall be on the taxpayer to prove the assessment is incorrect." Here, the Taxpayer has failed to meet her burden of proving that the Revenue Department's 2020 final assessment is incorrect. Although the Taxpayer asserts that her son was assigned to Putnam for the 2016-2017 tax year, she has provided no evidence that proves her assertion. Instead, as noted, the Revenue Department has provided ample evidence that the Taxpayer's son was assigned to Avondale Elementary for the 2016-2017 school year. This precludes the Taxpayer from qualifying for the School Transfer Credit for transferring her son to Altamont in August of 2016.

Therefore, the Revenue Department's 2020 final assessment is upheld. Judgment is entered against the Taxpayer in the amount of \$866.71, consisting of \$798.00 of outstanding tax, a \$39.90 late-payment penalty, and \$28.81 of interest, plus additional interest that continues to accrue from the date of the entry of the final assessment until the liability is paid in full.

It is so ordered.

This Final Order may be appealed to circuit court within 30 days, pursuant to Ala. Code 1975 § 40-2B-2(m).

Entered April 24, 2025.

/s/ Jeff Patterson
JEFF PATTERSON
Chief Judge
Alabama Tax Tribunal

jp:thb

cc: Rachel Williams
Sarah B. Harwell, Esq.