

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

CONCERNED PARENTS & TEACHERS

vs.

EXETER-WEST GREENWICH REGIONAL
SCHOOL DISTRICT COMMITTEE

D E C I S I O N

on

R E M A N D

November 3, 1989

On August 24, 1989 the Board of Regents for Elementary and Secondary Education remanded the captioned case to the Commissioner "for an independent decision". The matter was referred by the Commissioner to the undersigned Hearing Officer, who heard the initial appeal. (See decision of September 15, 1988).

The Regents, citing §16-39-2 of the General Laws of Rhode Island, 1956 as Amended, properly note that such appeals are de novo, and citing Slattery v. Cranston School Committee, 116 R.I. 252, 263 (1976) the Regents state such appeals "require a new evidentiary hearing and findings of fact and, equally important, the independent judgment of the Hearing Officer based on those facts". The Regents go on to say that although the Hearing Officer held a de novo hearing, he made a "review" decision.

We have, therefore, considered the evidence before us anew and weighed the arguments of the parties with respect to the effects of the School Committee's decision upholding the interchange of the classrooms. It is our independent judgment that the interchange of kindergarten and first grade classrooms at the Lineham School, in the absence of any other feasible alternatives such as leasing of additional classroom space, was academically sound. The kindergarten children are in school for about one-half the school day, while the first graders would be confined to the smaller space for a full school day. This factor is paramount in our decision to affirm the interchange of classrooms for these two groups of students.

We have followed the directive of the Regents to exercise independent judgment in this matter, and we agree with the Regents that appeals

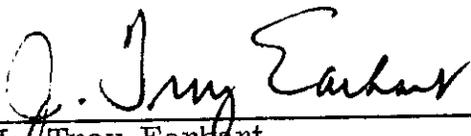
of this nature come to us for de novo hearing, and empower us to exercise our independent judgment. However, we would point out that we have, on occasion, refrained from exercising our independent decision-making authority and accorded deference to the school committee's exercise of discretion in academic matters, when such exercise of discretion is supportable (and supported on the record before us) and not contrary to any academic policy of state-wide concern.¹ We have in such cases refrained from substituting our judgment for that of the school committee, and it was this voluntary restraint, not a misperception of our role in de novo appeals, which resulted in our prior analysis and decision in this matter. In any event, our decision on remand complies with the directives of the Regents to exercise our independent judgment in this particular case.

^{1]} See, for example, our decisions in Jane Doe, I v. Johnston School Committee, March 11, 1987; Grilli v. East Greenwich School Committee, February 11, 1986 and the discussion in the Board of Regents' decision in Rzemien v. Bristol School Committee, May 27, 1982.



Ennis J. Bisbano
Hearing Officer

Approved:



J. Troy Earhart
Commissioner of Education

November 3, 1989