

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

JOSEPH and COLLEEN G. :
 :
 :
vs. :
 :
 :
EXETER-WEST GREENWICH :
REGIONAL SCHOOL DISTRICT :
 :

D E C I S I O N

July 3, 1990

Travel of the Case

On October 21, 1988 Colleen and Joseph G appealed the conditional approval of their home education proposal to the Commissioner of Education. Their proposal to home-school their three school-age children had been approved by the Exeter-West Greenwich Regional School Committee on September 27, 1988, subject to the condition that the G children participate in the annual testing program administered by the School District.

The parents appeal was heard on November 29, 1988, February 13, 1989 and on April 20, 1989 by the undersigned Hearing Officer, designated to hear this appeal by the Commissioner. Briefs were also submitted by counsel for the parties, a process completed on September 5, 1989.

Jurisdiction to hear the appeal is found in R.I.G.L. §16-39-1, §16-39-2 and more specifically in §16-19-2.

Issue

Can the Exeter-West Greenwich Regional School District condition its approval of the G home-schooling proposal on the requirement that the children be tested annually using the same standardized test administered
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to public school children in the district?

1] At time of hearing the School Committee's position was that the tests would not be required to be administered in-school, but could be administered in the home, by an objective third party, qualified to administer standardized tests. The latter requirement (the selection of the test-giver) does not appear, from the record before us, to be a matter of dispute to the G , who have indicated a certified teacher would be chosen, subject to the school administrator's approval.

Findings of Relevant Facts

- Joseph and Colleen G reside in West Greenwich, Rhode Island, and have home-schooled their children for the past four (4) years. They presently have three (3) children of compulsory school age.
- During school year 1987-88, the G , with School Committee approval, enrolled their children in the home-school satellite program of the Barrington Christian Academy in Barrington, Rhode Island.
- The G children were administered the Stanford Achievement Test as part of the above program during 1987-88.
- For school year 1988-89, Mr. and Mrs. G purchased their childrens' curriculum from the Barrington Christian Academy, and submitted their own home-schooling proposal to the School Committee on August 8, 1988. (Appellents' Ex.D).
- On October 17, 1988 counsel for the School Committee notified the attorney representing the parents of the conditional approval of their proposal. The notice indicated:

The G children must participate in the annual testing program. . . .As this relates to the G children, those in Grade one will be tested in the Lineham School in the local testing program, those in Grade three at the Wawaloam School in the State Testing Program and those in Grade four at the Metcalf School in the local testing program.

- The tests to be administered in each case, as testified to by Superintendent of Schools, John F. Eldridge, is the Metropolitan Achieve-

ment Test (MAT-6) (Tr. 86-87).

- Mr. and Mrs. G prefer to administer the Stanford Achievement Test to their children in their home, annually, with the tests administered by a certified Rhode Island teacher approved by the School Department (Tr. 100, 161 - Volume II.)
- While school officials recognize the Stanford Achievement Test as a valid and effective form of testing (Stipulation, Tr. Vol 1, p.88), Superintendent Eldridge testified that it was his opinion that for measuring growth and for making comparisons of the achievement of home-schooled children to public school children "a uniform testing program for one district is better". (Tr. 102-Volume I).
- Mr. Eldridge acknowledged that the school administrators would be able to measure growth and make such comparisons with the results of the Stanford Achievement Test as well. (Tr. Vol I, 108 and 128).
- The G preference for the Stanford test is because it was used during the prior school year when the children were enrolled in the Barrington Christian Academy's home-school program, and their curriculum and texts for the 1988-89 school year pattern those used during the prior year. (Tr. Vol. II, p. 156).
- The G decision to home-school their children is based on their religious belief that God wants them to educate their children at home, in a religious environment. (Tr. Vol. III p. 10-11).
- Their religious beliefs also require them to retain control of their childrens' educational program, including testing, and makes offen-

sive to them "anything like this (the testing requirement) that changes the program that they are administering to their children". (Tr. Vol. III p.19).

- It is possible to correlate the results of the Stanford Achievement Test to the Metropolitan test because both of the tests are normed nationally and give a sense of how a student is achieving at grade level (Testimony of Dr. Robert H. Shaw, Tr. Vol. II, 117).

Decision

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This is the second of a trio of cases which were initially consolidated for hearing but later separated for purposes of both hearing and decision. All three cases involve interpretation and application of our state's home-education statute, R.I.G.L. §16-19-2. The condition for approval imposed by the school district here, i.e. participation in the district's annual testing program, is much the same as that which gave rise to the dispute in the Thifault case. However, in the G's situation the School District has relented on the issue of site for the test (it may be in the home) and the record evidences no dispute as to the selection of the test giver.

As in Thifault the parents here feel they have sound educational reasons for choosing the Stanford Achievement Test, and their religious convictions on the need for them to control their childrens' education do not permit them to consent to the School Committee's preference for the MAT-6 Test.

2] The other cases are Thifault v. North Smithfield School Committee, Decision of the Commissioner, dated July 2, 1990 and Gauvin vs. Scituate School Committee, still pending decision.

Unlike the Thifault case the record of testimony from Superintendent Eldridge and the testing coordinator for the School Committee enlightens us as to the educational motivation in selecting and requiring the MAT-6 Test as a condition for approval of the home-school program. Mr. Eldridge's focus is on the concept of uniformity of testing, the benefits that flow from such uniformity and the need to have continuity of tests to gauge a child's growth (or lack thereof) from year to year. However, the Superintendent acknowledged the ability to correlate the different, nationally-normed, standardized tests for purposes of making the "appropriate educational judgments" with regard to both progress of the individual student and any comparison of that child's level of achievement to that of his peers in the public schools. It would appear, as it did in the Thifault case, that under the present circumstances the Exeter-³ West Greenwich School Committee should be furnished with sufficient information on which to assess the thoroughness and efficiency of the home instruction program under the parents' proposal. Furthermore, should school officials find it necessary or helpful in evaluating the program to compare the G's children's test results to children at their grade level in the public schools, testimony indicates that could do so. The School Committee's condition as to testing is rationally related to, and in furtherance of, its compelling state interest in ensuring an adequate

3] At this point in time the parents' testing proposal has been shown to be adequate. This is not to say that in the future, should circumstances change, the School Committee is constrained by our decision from requiring alternate and even additional measurements of the "thoroughness and efficiency" of the G home-schooling program. See Note 5 of our decision in Thifault containing a similar qualification and Note 8 as an example of circumstances in which several different measurements might be required at the same time.

education. However, we rule, as we did in Thifault that the School Committee is required to show that its condition is both essential to and the least restrictive alternative available to accomplish this interest, because the parents compliance with this condition would burden their practice of religion.

The briefs submitted by the parties indicate that they view the legal issues and burdens of proof much differently. The School Committee argues that given the statutory scheme, and its proof that there is a rational relationship between the requirement of the administration of the MAT-6 test and furtherance of its responsibility to ensure thoroughness and efficiency of the instruction, its preference must prevail. While the School Committee points out that the "spectre of religious freedom" was raised for the first time at the hearing before the Commissioner, it does not question the sincerity of the G's religious beliefs. Neither do we.

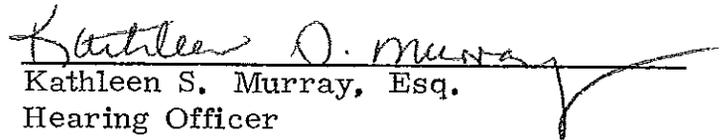
Given the burden on religion that would be entailed in the G consenting to the School Committee's proffered testing requirement, we find that the School Committee has not met its burden of proof that administration of the MAT-6 Test is the least restrictive alternative available to it in this case. While we feel it appropriate in determining the least restrictive alternative to consider undue administrative burdens that might be encountered in accommodating the parents' religious beliefs (and so noted at pp.12-13 of our decision in Thifault) as in Thifault, we cannot discern that such accommodation here would result in a burden to the Exeter-West Greenwich school officials.

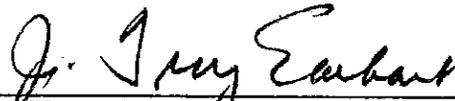
4] We attach hereto, and incorporate the First Amendment discussion set forth in the Thifault decision, as the facts here lead us to this same legal analysis.

Conclusion

The appeal of the parents is sustained, and with the modifications as indicated in the record before us, the School Committee is directed to approve the home-education plan submitted by Mr. and Mrs. G .⁵

5] Given the time frame, this directive would apply to school year 1988-89 and the current school year as well, unless the status of the G child-rens' educational progress has deteriorated to the extent that school officials feel additional measurements are needed this year.


Kathleen S. Murray, Esq.
Hearing Officer

Approved: 
J. Troy Earhart
Commissioner of Education

July 3, 1990