

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

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SABRA A. MASSEY, et al :  
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 :  
vs. :  
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 :  
EAST GREENWICH :  
SCHOOL COMMITTEE :  
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D E C I S I O N

September 4, 1990

This appeal was filed on May 10, 1990 by citizens of the Town of East Greenwich from an action of the School Committee to "reconfigure" certain of the East Greenwich Public Schools (4 elementary schools) by assigning grades to buildings different from the existing (1989-1990) grade assignment. Such final action was taken by the School Committee on April 3, 1990.

Hearings were held on June 26 and July 18, 1990 by the undersigned Hearing Officer, Donald J. Driscoll, appointed by the Commissioner of Education. A de novo hearing was held under R.I.G.L. §16-39-2. A stenographic record of the hearings was made, witnesses were sworn, direct testimony was taken, cross-examination exercised and briefs were filed by both parties. The record of the hearing was closed by briefs on August 7, 1990.

#### Issue

Has the East Greenwich School Committee made appropriate plans to implement reconfiguration of the East Greenwich Elementary Schools in September?

#### Motion

The Plaintiffs, Sabra A. Massey, et al, pled through a Memorandum of Authority that the hearing be held de novo. Decision on that motion was held in order to move the hearing forward. The hearing in this case was held de novo; a record was created and the decision has been based upon an independent consideration of the facts and

applicable law and regulation. See: Robin Muggle, et al vs. Pawtucket School Committee, Board of Regents, May 10, 1990.

Travel of the Case

- (1) Spring of 1988: Discussions began by Superintendent David P. Connolly, with administrators, teachers and parents of the elementary schools on problems of space, staffing and cost.
- (2) Fall of 1988: An Advisory Committee of administrators, teachers and parents was formed and a report was generated in early 1989.
- (3) February 1989: The Superintendent recommended a "reconfiguration plan to the School Committee.
- (4) March/April 1989: Public meetings were held and the issue was addressed.
- (5) May 1989: The School Committee passed the following motion:

"The motion was, 'that the School Committee approve the concept of reconfiguration of the elementary schools; namely, two buildings shall house grades K-3 and two buildings shall house grades 4-6'.

"On a motion made by Mr. Barton and seconded by Mrs. Watson, the Committee voted to amend the motion on the table to add 'provided that the following conditions be met: 1) That, by the September 1989 meeting of the East Greenwich School Committee, the Superintendent will provide the School Committee with a time line. This time line will serve as a schedule for addressing the open issues [including Transportation, Staffing, Curriculum and Budget] which need to be resolved for an orderly transition to a new configuration. 2) That at the December 1989, March 1990 and June 1990 meetings of the School Committee, or more often, the Superintendent will provide the Committee with a written resolution of these issues with specific reference to the time line. Provided further that if the Committee has reason to reconsider the financial educational assumptions used by the Committee to reach its decision, or if the Committee believes that sufficient progress is not being made to resolve the open issues, the Committee may vote to postpone or cancel the scheduled reconfiguration."

- (6) May 1989-May 1990: Committees were formed and issues identified and reports were made. Debate was held and embraced all who desired to take part. The School Committee reaffirmed its policy of May 1989 (reconfiguration) in April of 1990.
- (7) May 1990: Plaintiffs appealed the decision to the Commissioner of Education.

Applicable Law

The challenge in this case is to the authority of the School Committee and its agents to exercise its (and their) statutory and regulatory obligation(s).

The controlling laws are as follows:<sup>1</sup>

§16-2-9. General powers and duties of school committees.-

(a) The entire care, control and management of all public school interests of the several cities and towns shall be vested in the school committees of the several cities and towns. School committees shall have, in addition to those enumerated elsewhere in this title the following powers and duties:

- (1) To identify educational needs in the community.
- (2) To develop education policies to meet the needs of the community.
- (3) To provide for and assure the implementation of federal and state laws, the regulations of the board of regents [board of regents for elementary and secondary education], and of local school policies, programs and directives.
- (5) To have responsibility for the care and control of local schools.
- (8) To provide for the location, care, control and management of school facilities and equipment.
- (21) To provide for transportation services which meet or exceed standards of the board of regents [board of regents for elementary and secondary education].
- (23) To delegate, consistent with law, such responsibilities to the superintendent as the committee may deem appropriate.

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1] The entire law has not been quoted -only sections relating to powers and duties most directly impacting on the instant case have been selected.

§16-2-9.1. Code of basic management principles and ethical school standards. - School Committees shall adopt the following code of basic management principles and ethical school standards:

The (District) does hereby establish a code of basic principles and ethical standards for school committee members acting individually and collectively as boards of education in the management of the public schools of (City or Town).

The school committee in ( ) accepts the obligation to operate the public schools in accordance with the fundamental principles and standards of school management, which principles include but are not limited to the following:

- (2) Exercise legislative, policy-making, planning and appraising functions and delegate administrative functions in the operation of schools.
- (4) Accept and encourage a variety of opinions from and communication with all parts of the community.
- (5) Make public relevant institutional information in order to promote communication and understanding between the school system and the community.
- (6) Act on legislative and policy-making matters only after examining pertinent facts and considering the superintendent's recommendations.
- (7) Conduct meetings with planned and published agendas.
- (9) Establish and maintain procedural steps for resolving complaints and criticisms of school affairs.
- (10) Act only through public meetings since individual board members have no authority to bind the board.
- (11) Recognize that the first and greatest concern must be the educational welfare of the students attending the public schools.
- (12) Work with other committee members to establish effective board policies and to delegate authority for the administration of the schools to the superintendent.

§16-2-11. General powers and duties of superintendent. - (2) The superintendent of schools employed in accordance with the provisions of this chapter shall, under the direction of the school committee, have the care and supervision of the public schools and shall be the chief administrative agent of the school committee. The superintendent shall have such duties as are defined in this section and elsewhere in this title and other such duties as may be determined by the school committee from time to time, and shall perform such other duties as may be vested in him or her by law. In addition to the care and supervision of public schools and the appointment of employees of the district it shall be the duty of the superintendent:

- (1) To implement policies established by the school committee.
- (2) To recommend educational plans, policies and programs to meet the needs of the district.
- (3) To recommend policies governing curriculum courses of instruction, textbooks and transportation of students.
- (5) To have administrative responsibility for the school system.
- (6) To oversee the care, control and management of school facilities and equipment.
- (15) To evaluate all schools within the school system and to report to the school committee the conformity with regulations of the board of regents and the policies, programs, and directives of the school committee.

Findings of Fact

The issue in this case - has the East Greenwich School Committee made appropriate plans to implement reconfiguration of its elementary schools in September 1990 - we find to be one of compelling interest for those persons who have an individual or collective stake in the education of children. (Emphasis added). To that end; i.e. governance of the educational process, we find the facts in this case are as follows:

(Note: The numbers and letters in parenthesis refer to subsections of the law).

1. The East Greenwich School Committee did follow the law §16-2-9. In doing so, it (a) exercised entire care, control and management of all public school interests.
  - (1) identified educational needs,
  - (2) developed policy to meet those needs,
  - (3) provided for and assured implementation of law and regulation,
  - (5) exercised care and control of local schools,
  - (8) provided for the location, care, control and management of school facilities,
  - (21) provided for transportation which meets the standards set by the regents, and
  - (23) delegated to the superintendent certain duties and responsibilities.

2. The School Committee did follow §16-2-9.1. In doing so, it:
  - (2) exercised legislative, policy-making functions and delegated administrative functions,
  - (4) accepted and encouraged a variety of opinion with all parts of the community,
  - (5) made public relevant institutional information,
  - (6) acted only after examination of pertinent facts and considering the superintendent's recommendation,
  - (7) conducted meetings with planned and published agendas,
  - (9) established and maintained<sup>2</sup> procedural steps for resolving complaints and criticisms,
  - (10) acted collectively,
  - (11) recognized educational welfare as a paramount concern,
  - (12) worked collaboratively to establish policy and administrative responsibility.
  
3. The East Greenwich School Superintendent did follow §16-2-11. In doing so, he exercised the care and control of the schools and was the chief administrative agent:
  - (1) implemented school committee policy,
  - (2) planned and developed policies and programs to meet needs,
  - (3) recommended transportation plans,
  - (5) exercised administrative control,
  - (6) oversaw care, control and management of facilities and equipment,
  - (15) evaluated all schools.
  
4. The Plaintiffs did participate in the debate, serve on committees assembled and reviewed data and exercised their rights as citizens both individually and collectively.
  
5. The School Committee failed to follow the wording of an amendment to the motion of May 1989; i. e. presentation of a time line; addressing the open issues of transportation, staffing, curriculum and budget at a minimum of four (4) meetings (or more often) by the Superintendent in written reports. (Emphasis added).

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<sup>2</sup>See #5 above: We refer to the School Committee's failure to follow its motion in terms of time lines and reports. (pp. 7-8) The procedural steps in §16-2-9.1(9) refer to general provisions of any bylaws or policies of a school committee, not specific motions.

Decision

It is an undisputed fact that the Superintendent of Schools did not provide a written timeline nor the written reports required by the Committee's amendment to its motion of May 1989.

It is also an undisputed fact or facts that the proposal to "do" the reconfiguration of the elementary schools was policy action with administrative study, and action in full keeping with the law and regulations governing education in Rhode Island.

The Plaintiffs issue ". . . is whether or not the School Committee has made appropriate plans to implement reconfiguration in September of 1990, . . . ( Pl. Brief p.4). (Emphasis added).

The Plaintiffs identified areas with which they had conflicting opinion with the governing view of the School Committee. The society in which we live generates and accommodates many points of view, many opinions, and many statistics. From these, policy decisions are made and operational plans drawn. People in a democracy, however, differ in what they think and value.

In order to resolve those conflicting points of view, we have processes in place. In this case the process was first an open debate about the issue(s) at the local level. A vote was then taken by the governing board to create a policy and implement its decision. The person(s) who differ with the School Committee's decision have appealed to the Commissioner.

The Plaintiffs make a point that the School Committee did not follow

its own motion in terms of reporting procedures, choosing instead to ignore them. This may have been unwise, but no law was broken and no regulation unmet.

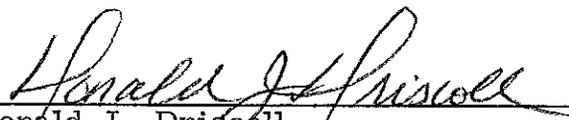
Other areas identified by the Plaintiffs included the potential isolation of parents from schools, an increase in numbers of children bused, the disruption of libraries and other effects of reconfiguration and changing school assignments. These arguments are "points of view" and represent disagreement not factual error.

The concern for a lack of a transportation plan and safety issues fails on its face. The School Department is developing its transportation plan and it will adhere to the safety standards or be cited for not doing so. That process (scheduling) happens every summer in every school system and is in place by opening day and corrected continually if problems arise after opening day.

The argument that this program is not academically sound fails in that the Plaintiffs offered no proof that instruction would be seriously impaired or altered except in the area of library reallocation. We are sure that the temporary condition will not make the entire K-6 program in East Greenwich "academically unsound."

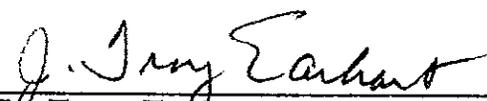
At no time did the Plaintiffs offer proof that the Committee acted contrary to law and/or regulation. Nor did they offer substantial proof that facts or statistics were revealed which would cause us to find that the School Committee was acting in a manner that was arbitrary, capricious, careless or irresponsible.

In this case, we have a substantial number of people who have a disagreement with a governing body. Failing to prove action contrary to law or regulation or a serious attempt to conceal or distort relevant facts which would change a course of action, we find for the East Greenwich School Committee. Redress is not to be found in the hearing and judicial process, but in the free and open electoral process where the persons responsible are judged periodically by the larger society.

  
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Donald J. Driscoll  
Hearing Officer

Approved:

September 4, 1990

  
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J. Troy Earhart  
Commissioner of Education