

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

----- :
JOHN B. and DIANE P. :
W: :
 :
vs. :
 :
NORTH SMITHFIELD :
SCHOOL COMMITTEE :
----- :

D E C I S I O N

May 21, 1991

This matter was heard on October 24 and November 26, 1990 upon the appeal to the Commissioner of Education of Mr. and Mrs. W of North Smithfield from an action (or lack of action) by the School Committee.

The Commissioner has authority to hear the appeal by virtue of the provisions of §16-39-2.¹ He appointed the undersigned Hearing Officer to hear the case.

Due notice was given to the interested parties of the time and place of the hearing. Both parties were represented by counsel. Witnesses were sworn, testimony was taken, a transcript of which was made, and evidence presented. We find the following:

1. The Appellants' child was present in a class/classes in which an "outside" speaker or program was presented with follow-up activities for the children made available.
2. The Appellants were involved, as a result of the in-school program, in what they considered to be an unpleasant intrusion of their family life as a result of the in-school program.
3. The PTO did pay/provide for this activity to take place in the school.
4. The Administration and faculty did make this activity part of the school day; therefore, it did become part of the total "curriculum" of the school.
5. A meeting for parents to receive information was held on March 14, 1990.

1] We conclude that the absence of an action; specific policy or administrative procedures or a perception of an insufficient policy development or administrative procedure development may be as real as an action to a citizen and he/she, therefore, has standing under §16-39-2 before the Commissioner.

Notice went home of this meeting on March 12, 1990. The W 's had previous commitments and could not attend.

6. The presentation (1 of 4 sessions) was made to the children on March 30, 1990.
7. The child in question went to the first session.
8. The W saw the permission slip for the class after the March 30 session. They signed for their child not to participate.
9. The problem (perceived intrusion on family life) occurred after the March 30 session.
10. The W petitioned the North Smithfield School Committee to redress their problem by adopting a "policy" on the use of "outside speakers" and procedures for implementing same.
11. The Superintendent prepared a draft of a policy which the Committee had not enacted as of this hearing date, November 26, 1990.

Law in this Case

The school committees of the towns and cities of Rhode Island have "The entire care, control and management of all public school interests. . ." §16-2-9(a) and §16-2-18. Further, they have the following power and duty under §16-2-9(a) (20) "To establish policies governing curriculum, courses of instruction, and textbooks."

The Superintendent has ". . . under the direction of the school committee . . . the care and supervision of the public schools. . ." (§16-2-11(a)). Further, he has the duty "To recommend policies governing curriculum. . ." §16-2-11(a) (3).

The law on curriculum (§16-22-1 through 18) does not specifically reference the issue in this instance.² §16-2-16, Rules and regulations etc., by statement charges the school committee, very clearly, with the curriculum of the schools.

§16-2-16. Rules and regulations - Curriculum -
The school committee shall make and cause to be put up in each schoolhouse rules and regulations for the attendance and classification of the pupils, for the introduction and use of textbooks and works of reference, and for the instruction, government, and discipline of the public schools, and shall prescribe the studies to be pursued therein, under the direction of the department of elementary and secondary education.

There is no doubt that what "happens" in the school is the responsibility of the school committee.

The W are not contesting the "rightness" or "wrongness" of this presentation. They are contending, however, that the School Committee was, and is, remiss in that it has no clear policy governing the use of "outside speakers," that this policy is required under law, and that its lack of policy did harm to them.

We find for the School Committee in this very narrow case, i.e., a policy concerning the use of "outside speakers". Rhode Island law does

2] Of note in this case is the issue of an "outside speaker(s)" being "a curriculum." The term curriculum has come to mean all that is taught in the school, both the formal and the informal presentation. To some these may extend to encompass the attitudes and values represented by behavior and atmosphere in the school. In this case it is clear that this was a formal presentation of material in a classroom setting and as such became part of the curriculum of the school. It is irrelevant who pays for, or who "sponsors", the material and presentation. Obviously, it was endorsed by the Administration and faculty and became part of the school's presentation or curriculum.

not specify a list of the myriad of policies which could be adopted revolving around issues in the school. Technically, then, we cannot say that the School Committee has violated Rhode Island law. The Committee is directed to establish policies and no listing is made.

As we cited in Viveiros v. Newport School Committee, Decision of the Commissioner, May 21, 1984, "While we do not read these provisions [§16-2-16, 18 and 22 -1 through 18] as according school committees carte blanche to introduce any conceivable matter as part of the curriculum, it is clear that . . . (they) have broad discretionary authority to establishing the curricula for their respective school systems." (pp. 3-4).

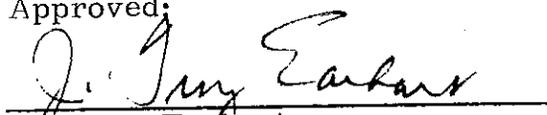
It is further clear, as a corollary, that a school committee has broad discretionary powers to determine those items for which it will adopt policy. In this case the School Committee did not have one, nor is it required to have one.

Accordingly, the appeal is denied.

3] We note, however, that a school committee which does not elect through policy procedures to deal with potential disagreement between school, parent, and/or the general public, does so at some risk. We note in this case, from testimony, that notice did go home and there was an attempt to reach parents and involve them. Through error, omission or timing these attempts were not effective and we assign no blame nor do we allege that these acts form policy. We also note that, subsequent to the incident, the Superintendent prepared and presented to the Committee, a policy that at the time of the second hearing had not been adopted. We urge the Committee to do so in the best interest of all.


Donald J. Driscoll, Hearing Officer

Approved:


J. Troy Earhart
Commissioner of Education

May 21, 1991