

State of Rhode Island
and
Providence Plantations

Commissioner of
Education

Warren School Committee

Vs.

Town of Warren

DECISION

Held: The Town of Warren must appropriate or otherwise make available to the School Committee the sum of \$972,174 to be added to the monies previously appropriated for education for fiscal year 1991-1992

March 30, 1992

Travel of the Case

On May 29, 1991 the Warren School Committee filed this appeal with former Commissioner J. Troy Earhart. At the financial town meeting held in Warren on May 20, 1991 the townspeople voted to appropriate the sum of \$8,059,849 for the Education Operating Budget for fiscal year 1991-1992. The School Committee's letter of appeal identifies it as aggrieved by two actions - first the appropriation made by the townspeople and, secondly, the action of the Town Council in putting before the voters for approval the sum of \$8,450,788, rather than the sum of \$8,762,021 which it had previously approved and which formed the basis for the amount advertised in the warrant for the town meeting. (S.C. Ex. 37, 28, and 29¹)

Hearings were held on July 9, 18, August 1, September 10, 1991, February 12, 27, March 6, and March 11, 1992. The hearing process was suspended on September 10, 1991 by agreement of the parties in order for them to participate in the budget reconciliation process provided for in R.I.G.L. 16-2-21.1. The findings and recommendations of the fact finding panel were forwarded to the parties on December 26, 1991. The recommendations of the

¹The amount advertised was \$8,822,761 which must have included both the general and special appropriations for schools.

fact finding panel were accepted by the School Committee and rejected by the Town Council (S.C. Ex. 64). Since the budget reconciliation process did not successfully resolve the budgetary dispute of the parties, proceedings before the Commissioner resumed.²

At the conclusion of the hearings and at the joint request of the parties, an audit team³ was dispatched to the Warren School Department. (See our Interim Order and Amended Interim order entered in this matter). The mission of the audit team was to verify two exhibits presented by the School Committee, Exhibits 73 and 74. The report of the audit team was received on March 23, 1992 and is attached hereto as Exhibit A.

The record of the case closed on March 23, 1992 upon receipt of the audit report. Briefs were filed by the parties who joined in a request for our expedited decision in this matter.

Jurisdiction to hear the appeal lies under R.I.G.L 16-39-1.

²We should note here that the issues placed before the Commissioner go well beyond the 1991-1992 budgetary dispute raised in the initial letter of appeal and addressed by the fact finding panel in a non-binding way. The "cause of action" of the school committee widened as hearings progressed to encompass its claim for additional monies for the prior fiscal year's accruals as well as expenditures made by the school committee in this fiscal year to address fire code violations in several school buildings.

³The team was comprised of fiscal staff from the Department of Elementary and Secondary Education and a member of the accounting firm of Piccirelli, Gilstein and Co.

Findings of Relevant Facts

- For fiscal year 1990-91, the revised budget request of the Warren School Committee was \$8,645,215. At the town financial meeting in 1990 the voters appropriated a sum which, when allocated by the Town Council, resulted in a \$7,843,100 school operating budget.⁴ After undergoing fact finding, a further appropriation was made by voters bringing the school department's appropriation for fiscal year 1990-1991 to a total of \$8,435,100. (Tr. Vol. II pp.11-15)
- As it entered fiscal year 1991-1992, the Warren School Committee had accrued expenses in the amount of \$231,797. (S.C. Ex. 73; Exhibit A, Audit Report)⁵
- The expenses accrued and unpaid at the close of fiscal year 1991 were caused by budget overruns in the areas of a) repairs on school buildings to bring them into conformity with the state fire code; b) increased and unanticipated special education expenses; c) monies paid to teachers who participated in the early retirement program; and d) repairs to school buildings for such things as a leaking roof, blown water heater, etc. (S.C. Ex. 18; Tr. Vol. V pp. 17-24; Exhibit A)
- The 231,797 of accrued expenses have been paid out of sums

⁴The same amount as the prior year's appropriation for schools.

⁵Exhibit A includes all costs associated with fire code repairs to school buildings as accruals for fiscal 1991; however, the testimony and other evidence clearly indicate that only a portion of the cost of code repairs was incurred in fiscal 1990-91; the major part of the cost (\$179,019) was incurred and paid in fiscal 1991-1992.
(Footnote Continued)

appropriated for schools in 1991-1992 (Tr. Vol 7, p.87 testimony of James K. Mac Dougall, Town Treasurer)

- The sum of \$179,019 has been expended by the School Committee during fiscal year 1991-1992 to make repairs to school buildings; without the installation of sprinklers and other work included in this expenditure, the schools would not have been allowed to open in September by the State Fire Marshal. (S.C. Ex. 18; Tr. Vol V, p.109, testimony of Superintendent Ludovico Perella).
- The \$179,019 expended for fire code repairs was not included in the 1991-1992 school budget and has been paid out of school funds budgeted for 1991-1992. (Tr. Vol .VII p.87)
- The \$8,762,021 revised school budget request for 1991-1992 presented by the School Committee on April 8, 1991 represented the amount reasonably anticipated to meet its contractual obligations and to meet the anticipated cost of providing school services mandated by law and regulation. (S.C. Ex. 18. In Exhibit 18, then - Superintendent Hoebbel posits that reduction beyond the \$8,762,021 figure will place the School Committee in non-compliance with state educational mandates)⁶
- The School Committee, with the exclusion of the \$410,817

(Footnote Continued)

Exhibit A does verify that the total of fiscal 1991 accruals and fire code repairs was \$410,817.

⁶We specifically do not find that this sum would enable the Warren School Committee to operate town schools in conformity with all applicable regulations, since S.C. Ex 59, together with Superintendent Perella's testimony clearly indicates that the school budget presented for 1991-1992 did not address "many" of the original 327 citations for violation of Basic Education Program requirements (Tr. Vol. V p.106-107)

expended for fire code repairs and payment of the prior year's accruals, has been expending funds at a level slightly lower than projected in its \$8,762,021 budget request.⁷

- Assuming the full amount of state aid anticipated at the time of the \$8,059,849 appropriation from the town, i.e. \$3,385,983, has been transferred to the school expenditure account (and not the actual figure of \$3,225,438 in state aid), then the School Committee would need an additional \$972,174 to meet its expenses for fiscal year 1991-92.
- Because the Town of Warren appropriates a "gross" rather than a "net" school budget, the testimony establishes (Tr. Vol. VIII pp.28-29) that the shortfall between anticipated and actual state aid (\$160,545) is incurred by the Town and not the school department. The audit team's analysis calculated the school department's need assuming that the actual state aid (\$3,225,438) rather than the higher estimate had been transferred to the school department. Since this is not the case, we have deducted the \$160,545 shortfall in state aid from the audit team's calculation of the school departments need (\$1,132,719) to arrive at what the school department needs for additional monies to complete this fiscal year.

⁷ According to School Committee Ex. 73, if the School Committee completes the fiscal year at its present expenditure level, it will spend the sum of \$8,727,277, again excluding monies already expended (\$410,817) for prior year accruals and fire code repairs. According to the report of the audit team (Exhibit A), the expenditures made to date and projected for the remainder of the school year will total \$8,632,706.

Decision

The issue in this case is whether the Town of Warren must make available, by additional appropriation or otherwise, sums of money in excess of the original \$8,059,849 appropriated by voters at the May, 1991 financial town meeting. The School Committee's claim is that it is entitled under law to a larger amount for fiscal year 1991-92 school operations because:

a) The school committee entered fiscal 1992 with an accrued deficit of over \$200,000.

b) The School Committee expended substantial amounts for school building repairs to bring them into conformity with the state fire code - expenditures that were unanticipated and unbudgeted and, the committee argues, should have been paid by the town in the first place since it holds legal title to the buildings.

c) The appropriation made by the voters to meet the anticipated cost of school operations this year was and is insufficient to enable the School Committee to provide services mandated by law and meet its contractual obligations.⁸

Uncontradicted evidence in the record before us was that the \$8,762,021 requested by the School Committee represented the amount which would be necessary to provide a basic educational program and to enable the School Committee to meet its contractual obligations during school year 1991-1992. This finding of fact was made primarily on the basis of the statement of former Superintendent James W. Hoebbel, contained in Exhibit 18, the

⁸Obligations which reduced through re-negotiation of collective bargaining agreements by approximately \$375,000.

1991-92 Budget Request of the School Committee. It is a finding which is also supported indirectly by the fact that the \$302,172 growth from the prior year was attributable to rising contractual personnel costs and increased special education expenses, both items of mandatory spending. These increases were added to what must be considered a minimum mandated program budgeted for in the prior year. The 1990-1991 appropriation was the result of an extended budgetary dispute over a minimum mandated school spending level. In the end, the voters evidently accepted the fact that no less than \$8,459,849 was needed to operate the town's schools that year. The \$8,762,021 revised budget request for fiscal 1992 was endorsed by the town council whose President Walter S. Felag stated on April 10, 1991 that the town must fully fund the School Committee's budget request.⁹ In any event, throughout the eight days of hearing, no evidence was presented to show that the revised budget request could be trimmed, and still permit the provision of mandated school services.

The evidence as to the actual level of operating expenditures shows that the School Committee has spent somewhat less than it anticipated for fiscal 1992.¹⁰ Our finding as to the financial need of the School Committee reflects the \$8,632,706 operating level verified by the audit team rather than the \$8,727,277 expenditure level projected in the School Committee's documents (Exhibits 73 and 74). The reason for this is that counsel for the School Committee stipulated that if the audit

⁹At the April 10, 1991 Budget Workshop. See Ex. 19

¹⁰Excluding the \$410,817 spent on remedying fire code violations and absorption of prior year accruals.

team found that estimates of total operating expenditures were high, the school committee would "live within" the lesser amount. (Tr. Vol. VIII pp.44-45). Since the \$8,632,706 amount represents a revised budget figure and, hopefully, a close-to-actual figure of what is needed to fund contractual obligations and provide mandated school services, the town is obligated to appropriate, or otherwise make available these additional monies to the School Committee.

The monies expended for fire code repairs (\$179,019) are likewise subject to reimbursement by the town. Although it is not clear whether the town, as holder of the title to school buildings was initially obligated to make these expenditures from its own budgetary resources, as the School Committee has argued, these were nonetheless mandated school expenditures. At the time the 1991-1992 budget was being formulated, the exact extent and cost of the repairs which would be required in order to open school doors in September was unknown. There is no evidence in the record that the School Committee went beyond the required repairs or that it had any discretion to exercise in the timing of these expenditures. Thus, we find that the School Committee is entitled to additional appropriations or transfers of funds to meet these expenses.

While we do not wish to sanction a School Committee's accrual of a deficit,¹¹ we find that under the circumstances here, the town is legally obligated to fund the accruals (\$231,797) from the 1990-1991 school year. The budget

¹¹We note specifically the prohibitions against incurring such deficits contained in R.I.G.L. 16-2-9, 16-2-18, 16-9-1 and 16-3-11.

reconciliation process and resulting appropriation of an additional \$592,000 that year did not give the School Committee the additional \$767,000 it was convinced it needed in order to meet its contracts and comply with applicable laws and regulations. In retrospect, it probably would have been a better course of action for the School Committee to stand firm in its position on its minimum budgetary needs for fiscal 1991. In essence, the School Committee is litigating this issue after the fact, by seeking to have its accrued expenses funded in the subsequent fiscal year's budget. We find, however, that because the 1990-1991 budget clearly was insufficient to support the mandated school program for that year, and because the budget overruns were in areas of mandated spending, the accruals for fiscal 1991 should be appropriated or otherwise funded in fiscal 1992. Sufficient sums to cover these expenses (\$231,797) should be transferred to the school department's account.

The affirmative defense of the town, as set forth in its brief, is that in appropriating additional monies for town schools it will run afoul of R.I.G.L. 44-5-2 "maximum levy" i.e. exceed a 5.5% cap on the prior year's tax levy. Those responsible for the fiscal management of the Town of Warren will undoubtedly take into account any legal impediment, if there is one, to raising the additional funds required by this decision exclusively through tax revenues. We do not mean to restrict the town in its choice of methods by which it will raise the additional \$972,174 for school purposes this year; however, we direct

that such additional sums be appropriated or otherwise made available to the School Committee for fiscal year 1991-92.

Kathleen D. Murray
Hearing Officer

Approved:

Peter M. ...

Commissioner of Elementary
and Secondary Education

EXHIBIT-A-

DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION

RESPONSE TO INTERIM ORDER

WARREN SCHOOL COMMITTEE)
vs.)
WARREN TOWN COUNCIL)
-and the-)
TOWN OF WARREN)

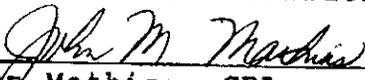
In response to the Interim Order (Attachment B) issued by Kathleen S. Murray, Esq., Hearing Officer, and approved by Peter McWalters, Commissioner of Education, on March 11, 1992, the Department of Education sent an audit team to the Warren School Department for the purpose of verifying actual expenditures as of March 13, 1992 and projecting expenditures through June 30, 1992. The audit team was headed by Jane F. Correia (Dr. Frank A. Pontarelli's designee) who was assisted by Dennis Juchnik and Steve Cuomo. An outside auditor, Kelly Scott of Piccerelli, Gilstein and Co., visited the site for the purpose of reviewing workpapers of the audit team and performing some independent tests.

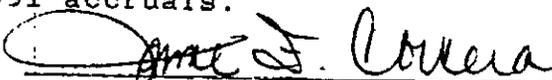
Attachment A summarizes the work completed by the audit team. Column C is the revised budget prepared by the Warren School Department in June, 1991. (See School Committee Exhibit 73.) Column B represents total expenditures as of March 13, 1992. (See School Committee Exhibit 74.) Included in total expenditures are FY 1991 accrual items delineated in Column E. Column F represents projected expenditures from 3/14/92 to 6/30/92, and Column G represents total projected and actual expenditures for FY 1992.

Supporting workpapers have been noted and prepared by the audit team with the assistance of client-prepared documents of the Warren School Department. Additional computer-generated documents containing detail expenditures by object code too cumbersome to attach to this report are on file at the Department of Education.

The audit team did not conduct an audit in compliance with General Auditing Standards but rather verified expenditures based on client reports and projected expenditures based on review of contracts, reports, vouchers, prior year expenditures and other documents available for review at the Warren School Department.

The findings of the audit team as illustrated in Attachment A indicate that the Warren School Department will require an additional \$1,132,719 to complete the 1991-1992 school year. As noted above and at Attachment A, Column E. \$410,817 of the shortfall is attributable to FY 1991 accruals.


John Mathias, CPA
Piccerelli, Gilstein and Co.


Jane F. Correia, CPA
Department of Education

JCMARREN
3/23/92

DEPARTMENT OF ELEMENTARY & SECONDARY EDUCATION
WARREN SCHOOL DEPARTMENT
FISCAL 1992 ANALYSIS

ATTACHMENT A

(A) Object Code	(B) Description	(C) Budget 1991-1992	(D) Expenditures a/o 3/13/92	(E) W/P Ref Prior Year Accruals	(F) W/P Ref Projected Expenditures 3/14/92-6/30/92	(G) W/P Ref Program 1991-1992 (D+F)
100's	Salaries	5,537,489	3,698,538		1,797,795	5,496,333
220	Cert. Personnel - RET.	517,428	427,951		168,216	596,167
230	Non-Cert. Personnel - RET.	34,227	25,237		11,100	36,337
240	FICA	417,463	268,379	4,194	137,531	405,910
250	Blue Cross - RISH	685,000	449,201		149,734	598,935
251	Blue Cross Buyback		53,023		18,808	71,831
280	Life Insurance	9,250	6,658		3,329	9,987
290	Workers Comp.	62,000	70,468		0	70,468
291	Unemployment Tax	30,000	31,772	791	13,048	44,820
		1,755,368	1,332,689	130,789	501,766	1,834,455
310	Prof./Tech Services	39,000	64,084	4,061	9,889	73,973
311	Optomoltrist	500			500	500
312	Dentist	1,300			1,300	1,300
313	Physicians	4,531	37,398	11,200	2,933	6,331
315	Legal	21,500	4,450	1,832	25,000	62,380
316	Audit	4,500	10,787		0	4,450
321	Water	15,500	10,787		5,439	16,226
322	Cleaning & Laundry	500	357		178	535
323	Repair & Maintenance	40,000	204,860	165,407	512	205,372
324	Property Insurance	40,000	42,077		1,300	43,377
325	Rental Expense	40,000	42,077		309	928
326	Electric	370	618		1,300	1,300
331	Pupil Transport	57,800	46,730	4,909	16,038	62,768
332	Pupil Transport - SPED	312,279	210,146	4,667	92,844	302,990
333	Travel		0		0	0
340	Telephone	4,000	4,010	178	1,916	5,926
350	Advertising	24,000	18,538	1,928	7,522	26,060
360	Printing & Binding	1,000	1,394	51	1,000	2,394
371	Tuition - Voc.	60,000	65		0	86
372	Tuition - SPED	500,000	322,931	66,383	49,532	49,597
391	Testing	10,000	5,533	41	2,550	547,378
394	Payroll Service	8,000	5,422	581	1,925	8,083
399	Extra-curricular	19,372	350		11,950	7,347
		1,164,152	983,217	261,238	457,084	1,440,301

JCMAREN
3/23/92
DEPARTMENT OF ELEMENTARY & SECONDARY EDUCATION
WARREN SCHOOL DEPARTMENT
FISCAL 1992 ANALYSIS

ATTACHMENT A

(A) Object Code	(B) Description	(C) Budget 1991-1992	(D) Expenditures 3/13/92	(E) W/P Ref Prior Year Accruals	(F) W/P Ref Projected Expenditures 3/14/92-6/30/92	(G) Program 1991-1992 (D+F)
411	Oil for Heat	50,900	30,944	156	12,000	42,944
412	Gas for Heat	1,100	1,184	104	308	1,492
421	Textbooks - Public	---	19,756	---	0	19,756
422	Textbooks - Nonpublic	---	3,701	---	0	3,701
430	Library Books - Reference	---	0	---	0	0
440	Periodicals - Reference	7,500	8,151	---	0	8,151
490	Other Supplies/Materials	200,500	134,727	18,393	10,000	144,727
492	Supplies - Software	---	4,005	---	0	4,005
494	Cleaning Supplies	---	3,192	---	0	3,192
495	Lights, Bulbs, etc.	---	2,610	---	0	2,610
496	Gas for Vehicles	---	1,511	82	476	1,987
530	Improv. Other than Bldgs.	260,000	209,782	18,735	22,784	232,567
542	Other Equip. Purchases	---	0	---	0	0
543	Equipment Maintenance	21,814	12,065	---	5,000	12,065
			251			5,251
		21,814	12,316	0	5,000	17,316
640	Fees & Dues	---	7,038	55	0	7,038
642	Subsidy	4,000	4,000	---	0	4,000
649	Intramural Dues/Fees	3,050	2,100	---	3,000	5,100
651	Liability Insurance	---	5,309	---	0	5,309
653	Judgments Against LEA	---	0	---	0	0
690	Miscellaneous	15,148	1,104	---	0	1,104
		23,198	19,551	55	3,000	22,551
	TOTALS ALL OBJECTS	8,762,021	6,256,094	410,617	2,787,429	9,043,523

Voucher Run Completed 3/13/92
Expenditure Reimbursement

Funding Sources:
State Share On-Aid
Misc. Local Revenue
Taxpayers' Share On-Aid

TOTAL FUNDING SOURCES
SHORTFALL

6,229,463

(3,225,438)
(11,500)
(4,673,866)
(7,910,804)

1,132,719