



## Introduction

This matter concerns a request by the Pawtucket School Committee that the Commissioner of Education conduct a hearing "to reconcile the budget differences between the Pawtucket School Department and the City of Pawtucket." (Hearing Officer's Exhibit 1).

A hearing was originally scheduled for August 11, 1993, but was continued at the request of the parties. On November 17, 1993, the School Committee requested that a special visitor be appointed to provide a report regarding the budget reconciliation process. (Hearing Officer's Exhibit 4).

Dr. Frank A. Pontarelli, Director of Administration and Finance of the Department of Education, was appointed as special visitor. He was authorized to request and require the production of all documents and information necessary to formulate an opinion as to the monies needed to "fund the valid collective-bargaining agreements entered into by [the] school committee as well as other obligations incurred in the providing of services mandated by law." <sup>1</sup> (Hearing Officer's Exhibit 5).

Dr. Pontarelli issued a report on January 18, 1994. (School Committee Exhibit 1). He testified at the January 19, 1994 hearing <sup>2</sup> in this matter. Further hearing was conducted on January 20, 1994.

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1 Exeter-West Greenwich Regional School District v. Exeter-West Greenwich Teachers' Association et al., 489 A.2d at 1020 (R.I. 1985).

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2 The record in this proceeding closed on February 10, 1994.

## Background

On April 27, 1993, Superintendent of Schools Emile Chevrette submitted a proposed School Department budget of \$50,736,434 for fiscal year 1994 to the School Committee. Following a series of reductions made by the School Department administration and the School Committee, a budget of \$48,418,517 was approved by the School Committee.

The Pawtucket City Council appropriated \$47,179,169 to the School Department for fiscal year 1994.

Dr. Pontarelli concluded in his Special Visitor's report that the School Department budget "is insufficient to meet the contractual and legal obligations of the School Committee."

(School Committee Exhibit 1, p. 3). The report also stated that there were no proposed expenditures "which exceed the BEP [Basic Education Program] or contractual requirements." Ibid. Furthermore, Dr. Pontarelli found that the school district is currently out of compliance with the Basic Education Program, and that it would require an expenditure of \$291,484 to bring it into compliance. Dr. Pontarelli therefore recommended in his report that \$1,530,825 be added to the City's 1994 fiscal year appropriation to the School Department. In addition, the report stated that the City would have to appropriate additional funds "should any of the contingent liabilities<sup>3</sup> become realities or the \$800,000

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3 The School Committee submitted a list of contingent liabilities which are not reflected in its fiscal year 1994 budget. The list includes the year-end City "chargebacks" to the School Department for various City services (such as accounting, payroll, voucher processing, and snowplowing) and several grievances and other matters presently in litigation. The Special Visitor's report noted, and testimony at the hearing (continued on next page)

Medicaid [revenue estimate] be overstated." Ibid.

Dr. Pontarelli discussed his report at length during his testimony at the hearing herein.

School Committee Deputy Chairman Gerald B. Resnick described the recent dramatic increase in the district's student enrollment, particularly in its at-risk population, and the financial, staffing, and administrative problems that have accompanied this growth. He testified that the district currently employs the "absolute minimum" number of administrators needed to run its schools. (1/20/94 transcript, p. 34). Mr. Resnick also discussed his efforts as Legislative Chairman of the School Committee to reduce statutory mandates and obtain additional funding for the district. Mr. Resnick was in agreement with Dr. Pontarelli's recommendation that an additional \$1,530,825 is needed by the School Committee to fulfill its contractual obligations and provide mandated services.

Superintendent Chevrette testified that the number of administrators employed by the district has been reduced substantially despite the large student enrollments in each of its school buildings.<sup>4</sup> He stated that the salaries of the administrators currently employed by the district are governed by a memorandum of agreement. Dr. Chevrette testified that the district is not in compliance with the Basic Education Program in the areas of music instruction, counseling and

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3 (cont) confirmed, another contingent liability regarding the School Department's potential liability for group-home tuition payments to another school district. Dr. Chevrette testified as to a further contingent liability regarding a special-education complaint involving services to pre-school children.

4 Dr. Chevrette testified that the School Department currently employs 31 administrators. There are 10 elementary schools, 3 junior high schools, and 2 high schools in the Pawtucket public school system.

guidance, library services and health services. Dr. Chevrette also addressed the City's practice of making "chargebacks" against the School Department. He stated that, in the past, the City provided the School Department with various services at no cost. As a result, the School Department did not budget for those services. In the past 3 years, however, the City has billed the School Department approximately \$300,000 per year for these services and withdrawn the funds from from the School Department's appropriated monies. Consequently, the School Department has incurred a major expenditure for which no funds were budgeted.

Dr. Chevrette testified that approximately 86% of the School Committee's fiscal year 1994 budget is related to contractual obligations and the remaining 14% is related to Basic Education Program requirements or necessary services in support thereof.

The School Committee also presented testimony regarding the Pawtucket School Management Study Committee. The Study Committee, which was appointed by the Mayor, the City Council, and the School Committee, reviewed the administration and financing of the School Department, including the fiscal year 1994 school budget. Dr. Dante F. Tita, Chairman of the Study Committee, discussed the Committee's April 26, 1993 report, which included a finding of "a realistic FY 1994 budget estimate of \$49,195,672 for business as usual." <sup>5</sup>

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5 The Study Committee's report emphasized that this estimate was based on the School Department's current practices. To quote the report:

The minimum education requirements referred to in this budget reflect the views of the Superintendent and School Committee, based on current educational decisions that have been made in the past. It does not constitute the absolute minimum funding needed (continued on next page)

(School Committee Exhibit 4, Section II, p. 3).

Mr. Jack Rahill, Finance Director for the City of Pawtucket, described the recent increases in City tax rates, the declining number of City taxpayers, and the scarcity of undeveloped land in the City. He also described the City's increased amounts of school funding during recent years, and the decreases in the City's municipal budgets. Mr. Rahill listed the cuts made in the fiscal year 1994 municipal budget and the measures being instituted to avoid a City deficit. Mr. Rahill testified as to the nature of the tax increase that would be needed to fund the School Department's current deficit. Mr. Rahill described a "chargeback" as "a fee charged for actual services rendered by the City to the School Department." (1/20/94 transcript, p. 203).

#### Positions of the Parties

Relying on the conclusions in Dr. Pontarelli's report, the School Committee contends that an additional appropriation of \$1,530,825 is necessary to fully fund the School Department's fiscal year 1994 budget. The School Committee further maintains that additional funds will be needed if any of the contingent liabilities takes effect, or if the Medicaid reimbursement revenue figure proves to be overstated.

Citing Exeter-West Greenwich and West Warwick School Committee et al. v. Souliere et al., 626 A.2d 1280 (R.I. 1993), the School Committee argues that a city or town must fund the collective-

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5 (cont) to run the School Department according to State law or Rhode Island Department of Education guidelines. It is the business as usual budget. (emphasis in original).

bargaining agreements between the school committee and employees, programs mandated by the Basic Education Program, and "all programs and services incurred in the meeting of the BEP requirements and in support thereof." (School Committee memorandum, pp. 7-8).

The School Committee asserts that school administrators are required both by statute (R.I.G.L. 16-2-9) and the Basic Education Program (Topics 34 and 35), and that the size of the administrative staff has been reduced to its lowest possible level. The Committee claims that the City "chargebacks" constitute a serious financial hardship, and are contrary to law and the City Charter. It further contends that the City's ability to pay the additional funds needed by the School Department is irrelevant under the Exeter-West Greenwich case.

The City contends that the Special Visitor and the School Committee are attempting to expand those items which must be funded as a matter of law, i.e., valid collective-bargaining agreements and mandated programs and services, by including matters and items dictated by "good educational policy."<sup>6</sup> (City memorandum, pp. 2-3). The City argues that Dr. Pontarelli's report must be rejected because it is based on his policy beliefs as an educator, not on the legal standard established in the

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6 The City identifies \$2,000,000 in administrative salaries, \$177,400 for non-educational equipment (replacement of truck/automobile, replacement of duplicating/printing machines, repairs to copy/postage machines, and supplies for copy/postage machines), \$5,450 for the junior police (student crossing guards) banquet, and \$14,420 for life insurance benefits for administrators and some School Committee members as expenditures not legally required under the Exeter-West Greenwich case.

Exeter-West Greenwich case. The City further contends that the report "failed to make a determination that each expenditure identified with a BEP requirement was the least amount required in order to achieve the goal of that particular BEP requirement." (City memorandum, p. 6).

The City also maintains that the School Committee did not fulfill its statutory responsibility to identify the community's educational needs [R.I.G.L. 16-2-9(a)(1)], and therefore is spending excessively, by its failure to seek variances from numerous Basic Education Program requirements.<sup>7</sup> It argues that the City "chargebacks" are proper because the School Department has accepted the City's services. The City stresses the financial difficulties it is currently facing and describes the fiscal restraint and cost-cutting measures it is exercising. Pointing to the \$2,652,908 in funds it has identified as being beyond the Basic Education Program or within a variance thereto, the City argues that the School Committee has not met its burden to show that it does not have sufficient funds in its current budget to meet its legally-required obligations.

### Discussion

R.I.G.L. 16-7-24 requires cities and towns to fund public schools. It states that

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<sup>7</sup> The City identifies \$30,638 for a librarian position at Tolman High School, \$100,000 for teaching positions that could be eliminated if special education class sizes were increased, \$100,000 for the elimination of health screening services to nonpublic schools, and \$225,000 for the elimination of nurse-teachers servicing nonpublic schools as savings that could have been realized if variances had been sought.

Each community shall appropriate or otherwise make available to the school committee for approved school expenditures during each school year, to be expended under the direction and supervision of the school committee of that community, an amount, which together with state education aid and federal aid . . . shall be not less than the costs of the basic program . . .

R.I.G.L. 16-7-24 was amended in 1983 to further provide that the Board of Regents "shall adopt regulations for determining the basic education program and the maintenance of local appropriation to support the basic education program."

R.I.G.L. 16-7-15 states that

The purpose of Sections 16-7-15 to 16-7-34, inclusive, is to provide a quality education for all Rhode Island youth by requiring a minimum per pupil expenditure level, by encouraging school committees to provide a superior education beyond this minimum, by identifying fiscal responsibilities of school committees, by further improving the efficiency of our school systems through encouraging small school districts to combine into larger, more efficient regionalized units, and by incorporating the many various state aids into one comprehensive program.

Under R.I.G.L. 16-2-9, "The entire care, control and management of all public school interests of the several cities and towns shall be vested in the school committees . . ." R.I.G.L. 16-2-9(a)(1) and (2) specifically authorize a school committee to identify educational needs in the community and develop education policies to meet those needs.

Following the 1983 amendment of R.I.G.L. 16-7-24, the Basic Education Program Manual was compiled. The purpose of the document is

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to fulfill the requirements that standards be set so that there would be a way to measure compliance with the law and, more generally, to determine whether equality of educational opportunity is being provided. (BEP Manual, p. i).

The BEP Manual is based on

Rhode Island laws and regulations, descriptions of effective practices of Rhode Island school districts, and discussions with a broad range of groups, including administrators, teachers, curriculum specialists, parents and students.  
Ibid.

In the Exeter-West Greenwich case, the Rhode Island Supreme Court stated that

we hold that a city or town is bound by and must fund the valid collective-bargaining agreements entered into by its school committee as well as other obligations incurred in the providing of services mandated by law.

To those who assert that we are upsetting the political balance between a school committee's authority to contract and the town or city council's or financial town meeting's authority to appropriate, we answer that this is not a situation created by the courts. The Constitution and the Legislature in its several enactments over the years have erected a structure of laws that we are under a duty to read together and interpret. Having done so, we have come to the conclusion and we emphasize that budgets submitted to the appropriating authority to fund collective-bargaining agreements and to fund mandated programs and services must be funded. 489 A.2d at 1020.

The parties herein rely on different portions of the above-quoted language in making their arguments. The School Committee contends that

The key language in the above ruling is that a municipality is required to fund obligations incurred in the providing of services mandated by law. Therefore, not only must a community fund the programs mandated by the BEP, but also, all programs and services incurred in the meeting of the BEP requirements and in support thereof. (Memorandum, pp. 7-8).

The City, on the other hand, asserts that

The language of the Supreme Court is clear and unequivocal . . . Those items which must be funded as a matter of law by the City of Pawtucket are the valid collective bargaining agreements and mandated

programs and services. There is no legal obligation for the appropriating authority to fund any other matters or items within the School Department budget. (Memorandum, pp. 2-3).

We construe the language "other obligations incurred in the providing of services mandated by law" in the Supreme Court's holding in the Exeter-West Greenwich case to include the necessary educational items and services which must be obtained in order to provide the programs and services mandated by law. We base this conclusion on the language used by the Court and a common-sense approach to a school district's task of carrying out its mandated duties and functions.

Despite being a detailed document, the Basic Education Program Manual does not, and realistically cannot, list every essential item needed by a school district to comply with the broad range of requirements contained therein. For instance, parents, guardians, or eligible students have a statutory right to copies of educational records. Obviously, the school district must have the means to copy records in order to comply with this mandate. But the BEP Manual does not explicitly list "copying machines" as a required item or service. The Board of Regents Regulations Governing Disciplinary Exclusions of Students from School require that written notices of cause and due process hearing rights be given to parents in long-term suspension cases. It is recommended practice to provide such notice by means of certified mail, which requires postage. Yet the BEP Manual does not explicitly list "postage" as a required item or service. School districts are required by statute to provide transportation to school for certain students. A school district may decide to purchase motor vehicles in order to reduce the cost of providing such transportation.

The BEP Manual states that school districts shall provide suitable transportation to students who need it to attend school. The Manual does not, however, specify the means by which school districts must provide the necessary transportation. We believe these examples demonstrate the logic of our construction of the holding in Exeter-West Greenwich, in addition to establishing the necessity of such items as copying machines, postage, and motor vehicles, which are at issue herein.<sup>8</sup>

We also reject the City's arguments that the appropriation of additional funds is unwarranted because the School Committee failed to request variances from BEP requirements and did not comply with those requirements by spending the least amount necessary. As previously discussed, the School Committee is responsible for the entire care, control, and management of the City's public school interests. It has the duty to identify and provide for the City's educational needs. It has discretion in the manner in which it spends appropriated funds in performing this duty. It is to be guided, of course, by the purpose of the funding statute, which is to provide a quality education for the youth of the state. It would not be consistent

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8 Contrary to the City's arguments, we find that the Basic Education Program does require school administrators. Topic 34 of the Manual, entitled "Administration/Management Systems," states that "Each school district shall be organized in an efficient manner, with properly trained personnel to effectively carry out its administrative and management functions." We find in the alternative that school administrators are required pursuant to our construction of the holding in Exeter-West Greenwich. The salaries and benefits of the administrators, whose employment is contractual in nature by virtue of their memorandum of agreement with the school district, therefore must be funded. We cannot say the same, however, for the junior police banquet or the life insurance benefits for School Committee members. These expenditures are not required by the Basic Education Program and therefore need not be funded by the City.

with this purpose to require school committees to spend the "least amount necessary" on all BEP items. Furthermore, the fact that the School Committee did not see fit, in the exercise of its duties, to seek the variances that the City has discussed merely means that the particular BEP requirements remained mandated programs or services for the Pawtucket school system. For the same reasons that these mandates were instituted, we must presume that the School Committee felt that variances were not in the best educational interests of the school district.

As for the "chargebacks" issue, we are unable to grant any relief to the School Committee based on the record in this proceeding. We are mindful that the expenditure of funds appropriated to a school committee "is within the committee's sole and exclusive jurisdiction."<sup>9</sup> Yet the evidence in this case shows that the School Committee expected the City to perform these services, accepted them, but did not budget for them. While the School Department needs these services to operate, we cannot order the City to provide them without cost. We therefore reject the School Committee's argument regarding the illegality of the "chargebacks," but they do remain a contingent liability which must be funded. We strongly suggest that the parties resolve this situation prior to the adoption of next year's budget.

### Conclusion

Except for the monies allocated for the junior police banquet (\$5,450) and for life insurance benefits for School Committee members (\$1,648), the School Committee's fiscal year 1994 budget

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<sup>9</sup> Dawson v. Clark, 93 R.I. at 460 (1960).

and its current \$1,530,825 deficit consist of expenditures arising from contractual obligations and the provision of mandated programs and services. The City must fund the deficit, minus the amounts allocated to the junior police banquet and life insurance benefits for School Committee members. The City must also fund any of the School Committee's potential liabilities or the revenue shortfall (as set forth in footnote 3 of this decision) that may be realized.

We therefore order the City of Pawtucket to appropriate to the School Committee the additional sum of \$1,523,727 for fiscal year 1994. We further order the City to appropriate to the School Committee any additional sums that may be required in accordance with this decision.



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Paul E. Pontarelli  
Hearing Officer

Approved:



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Peter McWalters  
Commissioner of Education

Date: March 25, 1994