

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

PAWTUCKET SCHOOL COMMITTEE :
 : VS. :
CITY OF PAWTUCKET : :

INTERIM ORDER

Held: City's request for reconsideration of earlier decision denied; interim order entered directing City to pay School Committee expense vouchers up to \$1,954,956 in excess of 1993-1994 budget appropriation pending resolution of City's appeal of earlier decision.

May 4, 1994

Introduction

By letter dated April 13, 1994, the Pawtucket School Committee requested an interim protective order directing the City of Pawtucket to provide additional funds in order to avoid the closing of city schools prior to the end of the school year. [Hearing Officer's Exhibit 1]. On April 21, 1994, the City of Pawtucket filed a motion for rehearing of our March 25, 1994 decision in light of the Superior Court decision in City of Pawtucket, et al v. Bruce Sundlun, et al. [Hearing Officer's Exhibit 3].

For the reasons set forth below, we deny the City's request to reconsider our earlier decision. We also enter an interim order directing the City to process School Committee expense vouchers, up to the amount of \$1,954,956 in excess of the City's 1993-1994 fiscal year school appropriation, for 1993-1994 school year expenditures related to contractual obligations and mandated programs and services.

Background

On March 25, 1994, we rendered a decision in the matter of Pawtucket School Committee vs. City of Pawtucket which held that the City must provide the School Committee with \$1,523,727 in additional funds, subject to certain contingent liabilities and potential revenue shortfalls, to meet contractual obligations and program requirements for the 1993-1994 fiscal year.

On April 8, 1994, the City filed a timely appeal of this decision with the Board of Regents.

1 This matter was heard on April 27, 1994. The record closed on May 2, 1994.

Under R.I.G.L. 16-39-3.1, a decision of the Commissioner does not become final if further administrative review is sought.

On March 14, 1994, Justice Thomas Needham of the Rhode Island Superior Court issued a memorandum decision and judgment in the case of City of Pawtucket, et al v. Bruce Sundlun, et al.² On page 13 of the decision Judge Needham held that

the method of funding public education in Rhode Island violates the Education Clause of the Rhode Island Constitution, Article XII, as well as the Equal Protection and Due Process Clauses of the Rhode Island Constitution, Article I, Section 2.

On pages 19-20, Judge Needham concluded that

It is the General Assembly that has the obligation of discharging its responsibility under Article XII. The legislature has the power and the duty to discharge that responsibility in a manner that will meet the test of equity and adequacy and a meaningful education. The manner in which this is achieved is the responsibility of the General Assembly. It is the responsibility of this Court to determine whether or not they have performed that function. It is the decision of this Court that the General Assembly has not performed that function. The Court will continue to retain jurisdiction of this matter.

The Court ordered the defendants to "proceed with all deliberate speed to formulate and establish a system of public school finance" which complies with the decision. (Decision, p. 23).

Judge Needham's decision has been appealed to the Rhode Island Supreme Court by the President Pro Tempore of the Senate, one of the defendants in the case.

Dr. Emile Chevrette, Superintendent of Schools, testified in

2 The case is a declaratory judgment action involving the cities and towns of Pawtucket, West Warwick, and Woonsocket.

this proceeding that Pawtucket's 180-day school year is scheduled to end on June 24, 1994. He stated, however, that the school district has funds to maintain school operations only until June 10th, at the latest. Dr. Chevrette described the harmful effects on students, staff, the school department, and taxpayers if the school district is forced to close schools pending the resolution of the City's appeal.

Mr. Thomas Conlon, business administrator for the school department, testified that revenue shortfalls have increased the 1993-1994 school deficit to \$1,954,956.

Mr. Jack Rahill, finance director for the City, testified that the City "can cover [the school department deficit] now because the cash flow at the moment is positive," and that the City is seeking to enter into an agreement with the School Committee for additional 1993-1994 funding. (Transcript, p. 102). Mr. Rahill added that "I would have to make that \$2,000,000 up in fiscal '95," explaining that the funds would be deducted from monies that the school department is due to receive next fiscal year. (Transcript, p. 102).

Positions of the Parties

In support of its motion for rehearing, the City argues that the School Committee is seeking to fund a budget deficit pursuant to the very educational funding scheme found to be unconstitutional by Judge Needham. The City contends that the Commissioner is without constitutional authority to order the City to fund the deficit under the current statutory system. Citing Judge Needham's decision, the City asserts that it is the General Assembly's duty to provide the additional funds needed to operate the city's schools.

The City contends for similar reasons that it would not be proper to grant the extraordinary relief requested by the School Committee at this time. The City further argues that an alternative less drastic than closing the schools, i.e., an agreement to move funds from next fiscal year to this year, is available to the parties. This alternative will eliminate the need to close schools early and thereby prevent any irreparable harm to the School Committee.

The School Committee contends that, in light of the fact that Judge Needham's decision has been appealed, the Rhode Island Supreme Court's decision in Exeter-West Greenwich School Regional School District v. Exeter-West Greenwich Teachers' Association et al.,³ continues to be the controlling precedent in this matter. The School Committee emphasizes the immediate crisis it is facing with regard to R.I.G.L. 16-2-2's requirement that school operations be maintained for 180 days on an annual basis. It points out that Judge Needham's decision provides for a yet-to-be-defined local contribution to the financing of public education, that the City can be reimbursed for any 1993-1994 appropriation that later may be found to be not constitutionally required, and that the City's proposed less drastic alternative would create another budget deficit for the 1994-1995 fiscal year. The School Committee asserts that, in the meantime, the current financing system remains in place and must be used to avoid the premature closing of schools.

Discussion

In view of the fact that Judge Needham's decision in the

3 489 A.2d 1010 (R.I. 1985).

Pawtucket v. Sundlun case has been appealed to the state Supreme Court, we decline to reconsider our earlier decision requiring the City to fund that portion of the School Committee's budget deficit attributable to contractual obligations and mandated programs and services. We agree with the School Committee that, pending the Supreme Court's resolution of the appeal, we are bound by the Supreme Court's decision in the Exeter-West Greenwich case and the current statutory system of financing public education.

We further find that interim relief under R.I.G.L. 16-39-3.2 is warranted here in order to ensure that each child of school age in Pawtucket "receives education in accordance with applicable state and federal laws and regulations" during the pendency of this matter.

R.I.G.L. 16-2-2 requires the City to operate its public schools for at least 180 days. R.I.G.L. 16-7-24 requires the City to appropriate sufficient funds to support the basic education program. The record establishes that the School Committee needs an additional \$1,954,956 to meet those obligations for the 1993-1994 school year.

We therefore order the City, during the pendency of its appeal of our earlier decision, to make payment on School Committee vouchers, up to the amount of \$1,954,956 in excess of its 1993-1994 fiscal year appropriation, for expenses attributable to contractual obligations and mandated programs and services during the 1993-1994 school year. ⁴

4 As discussed in Warren School Committee vs. Town of Warren (Commissioner's decision, March 30, 1992), the City need not rely exclusively on tax revenues to raise the additional funds needed to operate its public schools for the full 180 days. The City must, however, make the necessary monies available to the School Committee for fiscal year 1993-1994.

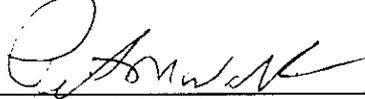
Conclusion

The City's request that we reconsider our March 25, 1994 decision is denied. An interim order is entered requiring the City to pay School Committee expense vouchers up to the amount of \$1,954,956 in excess of the City's 1993-1994 appropriation pending the resolution of the City's appeal of our earlier decision.



Paul E. Pontarelli
Hearing Officer

Approved:



Peter McWalters
Commissioner of Education

Date: May 4, 1994