

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

PAWTUCKET SCHOOL COMMITTEE VS. DAVIES CAREER & TECHNICAL SCHOOL
---

DECISION

Held: (1) Lottery is constitutional.  
(2) Davies would need more  
funds to enroll more students.

Date: February 17, 1995

## Introduction

This case presents three (3) issues:

- Issue I. Do all students who wish to apply to Davies Vocational School have a right to enroll in Davies or may Davies cap enrollment at the point where it concludes that it has no space for students?
- Issue II. Is Davies now, in fact, enrolling the maximum number of students which it might be reasonably expected to enroll?
- Issue III. If Davies may cap the number of students it accepts, is the present lottery used for selecting students constitutional? The petitioner contends that all students in the Davies catchment area should have their names placed in one common lottery. Respondent contends that it is permissible to use a lottery based upon towns, with any slots not used being reassigned to Pawtucket.

## Findings of Fact

- The William M. Davies Vocational-Technical School is a regional vocational school, organized pursuant to the dictates of R.I. General Laws § 16-45-1 et seq., which is responsible for providing vocational education services to those children residing within its catchment area who wish to take advantage of the state's guarantee of access to such programs. (R.I. Gen. Laws § 16-45-1).
- The catchment area for the William M. Davies Vocation School consists of the Central Falls, Lincoln, North Providence, Pawtucket, and Smithfield School Districts. (Testimony of Stephen Thornton, 11/17/94, Transcript p. 4).
- Of the five districts supplying students to Davies, as of September of 1994, only Pawtucket had any students on a waiting list. For the 1994-1995 school year, Davies accepted and enrolled 171 students out of the 278 Pawtucket residents who applied for entrance into the vocational school. (Testimony of Emile Chevrette, 11/14/94, Transcript p. 15).

- Due to the fact that more students apply for the ninth grade class at Davies than there are allotted openings, the Davies Vocational School uses a lottery to determine who will attend. Each of the five school districts in the catchment area is allotted a percentage of the available class seats according to the population of eighth graders enrolled in all schools, public and private, located within each district as compared to the other sending districts. Each community gets a number of seats based on the percentage of eighth graders it has in the pool. (Testimony of Emile Chevrette, 11/14/94, Transcript p. ) Seats not used by a community are placed back in the pool. Pawtucket is the beneficiary of this reassignment of seats.
- The collective bargaining agreement between the Davies Vocational School and its teachers' union contains no clause pertaining to either a minimum or maximum allowable class size. (Testimony of Stephen Thornton, 11/29/94, Transcript p. 10).
- Expansion at the Davies School has added at least four new classrooms and expanded at least one laboratory since the beginning of the 1994-95 school year. (testimony of Stephen Thornton, 11/29/94, Transcript p. 34).
- Shop and laboratory classes at the Davies Vocational School are generally limited to fifteen students. (Testimony of Stephen Thornton, 11/29/94, Transcript p. 34).
- The Davies School maintains admirably low student/faculty ratios in its academic classes as well as in its shop and laboratory classes. The Principal did not refute that the average reading class size at Davies is under five students and the average English, Math or Science class contains just over twelve students. (Testimony of Stephen Thornton, 12/14/94, Transcript at p. 19-20).
- By means of comparison, class size in the Pawtucket School system for academic classes such as English, Math, or Science average 22-23 students. This is in keeping with state average as documented in the Rhode Island Department of Education Educational Indicators. (Testimony of Emile Chevrette, 12/14/94, Transcript p. 41-42).
- Of the five districts supplying students to Davies, Pawtucket citizen students represent the highest percentage of minority students as well as the highest proportionate share of students being serviced by Individual Education

Plans(IEPs). (Rhode Island Department of Education Educational Indicators (1993); U.S. Department of Commerce, Bureau of the Census).

Issue I. Do all students who wish to apply to Davies Vocational School have a right to enroll in Davies or may Davies cap enrollment at the point where it concludes that it has no further space for students?

We have already fully addressed this issue in a prior opinion in which we concluded that Davies could, for good cause, cap its enrollment. The responsibility for the vocational education of any student not accepted at Davies would remain the responsibility of the sending community. Katie F. Vs. the Pawtucket School Committee and the Davies School, Commissioner of Education, (April, 1993). This holding has been endorsed by the Board of Regents. Under the circumstances, we adhere to our previous holding on this issue.

Issue II. Is Davies now, in fact enrolling the maximum number of students which it might be reasonably expected to enroll?

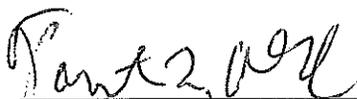
We find that Davies now has, or shortly will have, additional space for students. We further find that if the General Assembly appropriated more funds to Davies additional students could safely and effectively be educated there. The problem in this case is that the General Assembly has not appropriated sufficient funds to allow Davies to accept every student who applies there. We find that Davies' alignment of classes and its usage of shop facilities are near maximally efficient for the population which it serves. It must be recalled that many Davies students are "at risk students" or are students in special education programs. Students in these categories need individualized instruction and close supervision to enable them to successfully and safely complete the program at Davies. We therefore conclude that under its current appropriation Davies has enrolled as many students as it may reasonably be expected to enroll.

Issue III. If Davies may cap the number of students it accepts is the present lottery used for selecting students constitutional?

We think that the present admission lottery used at Davies is constitutional. There has been no showing that Pawtucket suffers anything other than, at most, a de minimis loss of seats at Davies. Pawtucket argues that the names of all the students in the Davies catchment area should be placed in a common pool. Under the present system each community receives an enrollment quota proportional to its percentage share of 8th grade students in the catchment area. Any seats not claimed by a community are returned to the pool. Pawtucket is thus able to claim almost all slots not used. We can find no constitutional violation in the present lottery system.

Conclusion

Petitioner Pawtucket's claims are denied and dismissed.

  
Forrest L. Avila, Hearing Officer

Approved:

  
Peter McWalters, Commissioner

February 17, 1995  
Date

STATE OF RHODE ISLAND

BOARD OF REGENTS FOR ELEMENTARY  
& SECONDARY EDUCATION

PAWTUCKET SCHOOL COMMITTEE :  
 :  
VS. :  
 :  
DAVIES CAREER & TECHNICAL SCHOOL :

DECISION

This is an appeal from a decision of the Commissioner which found that the admissions procedures used by Davies Career & Technical School ("Davies") were legally permissible. The designated Hearing Officer held a full evidentiary hearing and made numerous findings of fact which are set out at length in his decision. The Hearing Officer framed the issues in the case as follows:

- "Issue I. Do all students who wish to apply to Davies Vocational School have a right to enroll in Davies or may Davies cap enrollment at the point where it concludes that it has no space for students?"
- "Issue II. Is Davies now, in fact, enrolling the maximum number of students which it might be reasonably expected to enroll?"
- "Issue III. If Davies may cap the number of students it accepts, is the present lottery used for selecting students constitutional? The petitioner contends that all students in the Davies catchment area should have their names placed in one common lottery. Respondent contends that it is permissible to use a lottery based upon towns, with any slots not used being reassigned to Pawtucket."

The Hearing Officer concluded that Issue I had been fully addressed in a prior opinion of the Commissioner which was upheld by this Board. Katie F. vs. The Pawtucket School Committee and The Davies School, Commissioner of Education Decision of April, 1993. That case held that for good cause Davies could cap its enrollment. We concur with the Hearing Officer's conclusion on this issue.

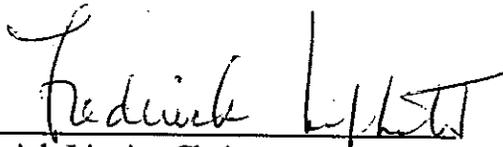
In responding to Issue II the Hearing Officer found that Davies was in fact enrolling the maximum number of students which it might be reasonably expected to enroll. His findings in that regard have support in the record and are therefore controlling.

With respect to the constitutional questions raised in Issue III, the Hearing Officer concluded

that the lottery system employed by Davies was a constitutionally permissible method of allocating student slots at Davies. We concur.

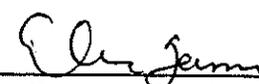
For the reasons stated the decision of the Commissioner is affirmed.

Board of Regents for Elementary  
& Secondary Education

  
\_\_\_\_\_  
Frederick Lippitt, Chairman

~~October~~  
September 12, 1995

The above decision was adopted as the recommendation of the Appeals Committee on  
, 1995.

  
\_\_\_\_\_  
Elia Germani, Chairman  
Appeals Committee