

STATE OF RHODE ISLAND

COMMISSIONER OF EDUCATION

AND

PROVIDENCE PLANTATIONS

IN RE FUNDING FOR THE CHARIHO *
REGIONAL SCHOOL DISTRICT *
FOR FISCAL YEAR 1996 *

DECISION ON MOTION TO
CONSOLIDATE AND MOTION TO DISMISS

Held: Issues raised by school committee's appeal and arising under R.I.G.L. 16-7-23 are properly before the Commissioner for adjudication.

October 25, 1995

Travel

Hearings have been ongoing since June of 1995 in an appeal filed by the Chariho Regional School Committee concerning the adequacy of its appropriation for fiscal year 1995-1996. Most recently, the parties have appealed a ruling on a declaratory judgment issued by Judge Needham of the Superior Court. The Court's ruling was that the appeal should proceed before the Commissioner. On August 7, 1995 the General Assembly enacted the state budget for fiscal year 1996. That budget included "Article 18 -- Relating to Education Aid" and incorporated an amendment to our General Laws, specifically R.I.G.L. 16-7-23 entitled "Community requirements" -- adequate minimum budget provision. This so-called "maintenance of effort" provision requires that:

For fiscal year 1996 each community shall contribute funds to its school committee an amount not less than its fiscal year 1995 contribution for schools. The courts of this state shall enforce this section by writ of mandamus.

Upon passage of the state budget, the Regional School Committee filed an additional appeal based on the inclusion of the above-cited amendment to 16-7-23 and moved to consolidate it with the proceedings already pending before the Commissioner of Education. The respondent towns, (Hopkinton, Charlestown and Richmond) as well as class representative Ross Beil, have objected and moved to dismiss this appeal.

Issue: Is a request for interpretation and enforcement of R.I.G.L. 16-7-23 properly before the Commissioner of Education?

Decision

At a hearing conducted on September 15, 1995 counsel for the respondents argued that an appeal premised on R.I.G.L. 16-7-23 was removed from the Commissioner's jurisdiction by language appearing in that section, i.e.

The courts of this state shall enforce this section by writ of mandamus.

It is argued that such language indicates the legislature's intent to vest exclusive jurisdiction in disputes arising under this section in either the Superior or Supreme Court which have jurisdiction over the issuance of prerogative writs. It is our conclusion that the cited language does not divest the Commissioner of authority to adjudicate disputes arising under education law as set forth in 16-39-1 of our General Laws. First, a primary rule of statutory construction is to read statutes in pari materia consistently if possible. We read 16-7-23 to be consistent with 16-39-1 even though they contain no reference to one another and were passed at different times. See State v. Ahmadjian; 438 A.2d 1070 (R.I. 1981); Providence Teachers Union v. School Committee of City of Providence, 276 A.2d 762, 108 R.I. 444 (R.I. 1971). R.I.G.L. 16-39-1 creates an administrative forum for disputes arising under laws relating to schools or education. The existence of such a forum need not be odds with the availability of mandamus to

enforce the requirement set forth in Section 16-7-23. We construe the language making available a writ of mandamus to compel a community to equal its 1995 school support in fiscal year 1996 as the creation of an additional remedy in the event of noncompliance with this section. A speedy and direct judicial remedy for enforcement of the so-called maintenance of effort provision is recognition that, in most cases, determination of the amount constituting the community's "contribution" for fiscal year 1995 should be fairly simple. The amount of contribution is a matter of public record and easily susceptible of proof. Thus, a writ of mandamus, traditionally used to compel the performance of a ministerial duty on the part of a public officer, board or commission provides an effective and appropriate legal remedy. Section 16-7-23's language merely affirms the availability of this relief, without repealing existing remedies under other statutes.

When and if a party chooses to enforce the requirements of 16-7-23 through mandamus, the availability of an administrative remedy will not act as a bar. Without the mandamus language contained in Section 16-7-23 the failure to exhaust such administrative remedies could be argued to preclude mandamus relief. See Wood v. Lussier, 416 A.2d 690 (R.I. 1980); Izzi v. Warwick School Committee, 105 A.2d 818, 82 R.I. 76 (R.I. 1954). In Izzi, our Supreme Court determined that a teacher's ability to file an administrative appeal to the Commissioner provided a "plain

and adequate remedy at law", the existence of which precluded mandamus relief. By including the language it did in 16-7-23 the Legislature made clear that exhaustion of administrative remedies was not a precondition to mandamus.

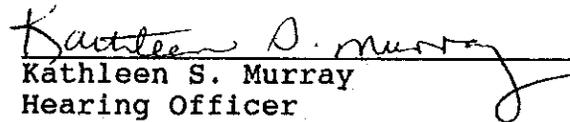
The second ground for dismissal of this appeal advanced by the respondents is that the appeal seeks an interpretation of R.I.G.L. 16-7-23 and as such is a declaratory judgment which the Commissioner is without authority to issue.¹

Our review of the appeal filed by the Chariho Regional School District Committee on September 14, 1995 indicates that it is more than a theoretical inquiry requesting only an interpretation of various education statutes.² The appeal seeks an application of Section 16-7-23 to the facts surrounding the 1995-96 appropriation for the regional school district by the member towns. The school committee requests an order for an additional appropriation upon resolution of certain questions. An actual dispute exists as to the inclusion of \$550,000 dollars expended in fiscal year 1995 for improvements and renovations to athletic facilities in the calculation of "contribution" for 1995. A legal issue has also been raised as to a potential conflict between R.I.G.L. 16-7-23, as amended by Article 18 of the

¹The record indicates that substantial issues exist as to how the word "community" is to be interpreted in the statute and whether a \$550,000 expenditure made during 1995 is to be included in the calculation of the "contribution" for 1995.

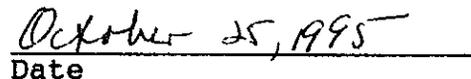
²Although we would note that even if it were, the Commissioner has statutory authority to "interpret school law" even in the absence of a dispute appealed under 16-39-1. See R.I.G.L. 16-1-5 (J); See R.I.G.L. 16-60-6 (9)(h).

state budget and the Chariho Act, P.L. 1986 Chapter 286, which grants to voters at the annual regional district meeting the prerogative to determine the school budget. All of these issues arise under laws relating to schools and education and must be resolved in order to determine the amount of any additional appropriation for fiscal year 1996. With reference to interpretation, application and enforcement of education laws in our state, the Commissioner has broad statutory powers and responsibilities. See R.I.G.L. 16-1-5 and R.I.G.L. 16-60-6. In accordance with his statutory responsibilities, the Commissioner is charged to hear and decide the issues presented by the School Committee's appeal. The motion to dismiss is denied. It would be appropriate to consolidate this appeal for hearing with the pending proceedings, as the resolution of the maintenance of effort issue may resolve the pending budgetary dispute. The motion to consolidate is granted.


Kathleen S. Murray
Hearing Officer

Approved:


Peter McWalters
Commissioner


Date