

Introduction

This is an appeal from the New Shoreham School Committee's June 19, 1995 rejection of the superintendent's recommendation that Lori Patnaude be appointed to a first-grade teaching position.¹

For the reasons stated below, we deny the appeal.

Background

During the 1994-1995 school year, the first-grade teacher at the Block Island School announced her intention to resign from her position effective June 1995. Over 100 individuals, including Appellant, subsequently applied for the position. Appellant is employed as a teacher assistant at the Block Island School.

In the spring of 1995 then-Superintendent of Schools Richard Scherza assembled a screening committee to interview 6 finalists for the position.² The committee eventually consisted of 5 individuals: Mr. Scherza, the retiring first-grade teacher, the second-grade teacher at Block Island School, a member of the special education advisory group, and the parent of a Block Island student.³

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- 1 The undersigned hearing officer was designated by the Commissioner of Education to hear and decide the appeal. Hearings were held on September 19, October 23, November 2, 1995 and January 4, January 24, and May 13, 1996. The parties also filed post-hearing memoranda.
 - 2 In April 1995, Mr. Scherza submitted his resignation from the position of superintendent/principal of Block Island School effective July 22, 1995.
 - 3 Mr. Scherza initially announced a 4-person screening committee at a May 15, 1995 School Committee meeting, but the Committee directed him to expand this particular committee by adding a member from the elementary faculty. The School Committee had previously directed Mr. Scherza to include a member of the special-education advisory group on all screening committees.

Mr. Scherza testified that he informed the screening committee of its advisory nature. He conducted "a brief discussion as to some of the skills, talents, [and] orientations" that the committee should focus on. [9/19/95 transcript, p. 85]. He also told the screening committee members that they were free to question the applicants as they saw fit,⁴ and that each member should rank the applicants in order of preference at the conclusion of the entire interview process. Mr. Scherza deliberately did not provide screening committee members with an opportunity to discuss the applicants prior to making their individual rankings.

Interviews were conducted over a three-day period, with two applicants being interviewed each day. All screening committee members attended the first day's interviews, but the parent member did not attend the second day's interviews and the special-education advisory group member did not attend the third day's interviews. The two applicants who interviewed on the second day, which included Appellant, later met separately with the parent member of the screening committee at the latter's home.⁵ The two applicants who interviewed on the third day did not meet with the special-education

4 Mr. Scherza testified that he did not have a checklist of questions or issues to be posed to each applicant, but that he had a "mind-set" to ask each applicant the questions that related to the committee's areas of focus. [9/19/95 transcript, pp. 97-98]. Mr. Scherza further testified that literacy and technology were the two primary areas of focus in the interviews.

5 The parent member of the screening committee testified that she tried to cover the same topics at her home that had been discussed by the committee in the previous interviews, but when asked about the technology area, she stated "probably that's something I forgot when I was at home." [1/4/96 transcript, p. 223].

advisory group member.

The screening committee members submitted their rankings of the applicants to Mr. Scherza, who assigned points to the rankings. According to Mr. Scherza's tally, Appellant received the highest number of points. Mr. Scherza also rated Appellant the highest on his personal ranking of the applicants.

The agenda for the School Committee's June 19, 1995 meeting included appointments to three teaching positions, including the first-grade position. Mr. Scherza's recommendations to fill a .2 health teacher position and a one-year full-time English teacher position were accepted by 5-0 and 4-1 votes, respectively.⁶

Mr. Scherza then recommended Appellant for the first-grade position. According to the minutes of the meeting,

After a lengthy discussion, the motion (Pappas, Spier) to reject the superintendent's recommendation to appoint Ms. Patnaude carried unanimously. Stated reasons for the rejection included lack of teaching experience, sympathetic (sic) towards the seniority issue, and dissatisfaction with the selection process itself. [Appellant's Exhibit 8].

The record shows that a lengthy discussion did in fact take place following Mr. Scherza's presentation to the School Committee.

6 Members of the School Committee were critical of the fact that the applicants for the English position were interviewed despite the inability of the special-education advisory group member of the screening committee to participate. The special-education member did not otherwise meet with any applicants. Mr. Scherza testified that "We went ahead with the interviews because I was going to be leaving and we wanted to get the candidates forward." [9/19/95 transcript, p. 120]. The record does not indicate whether the special-education member played any role in the English teacher selection process.

The discussion was held in public session and consisted of comments and questions from members of the public as well as the School Committee. The discussion centered on the superintendent's selection process, the background and qualifications of certain applicants (including Appellant and the current kindergarten teacher), and the School Committee's reasons for rejecting Mr. Scherza's appointment. As for the procedural concerns voiced at the meeting, School Committee members addressed the screening committee's failure to have all members present for all of the applicants' interviews, the conducting of home interviews, variations in the questions asked of applicants, and the absence of any group discussion by screening committee members prior to ranking the applicants. Appellant and the current kindergarten teacher spoke on their own behalf during the course of the meeting.

In the summer of 1995, Interim Superintendent Dr. Esther Campbell organized a new screening committee which interviewed 8 applicants, including Appellant, over a two-day period. All screening committee members were present for each interview. Screening committee members were asked to develop questions pertinent to their areas of interest, and each applicant was asked the same questions. Screening committee members were given evaluation sheets containing 8 areas in which the applicants were to be ranked. Applicants also were asked to complete essay questions regarding their educational philosophy and reactions to possible situations. The screening committee members discussed the applicants after the last interview, and they ranked the applicants based on the

interviews. Dr. Campbell later contacted the screening committee members to discuss the applicants' essays and first-grade teaching experience.

Although Appellant received the highest interview ranking, she was not recommended for the position by Dr. Campbell after the essays and experience factor were considered. Instead, Dr. Campbell selected the applicant who had completed her student teaching in the first grade. According to Dr. Campbell, a former first-grade teacher,

None of the other candidates had spent a continuous amount of time watching first graders develop day by day, teaching skills and knowing how to work with first graders from the beginning of school. [9/19/95 transcript, p. 174].

When asked if student teaching was the equivalent of experience acquired by a certified teacher,⁷ Dr. Campbell stated

Absolutely. If more teachers would do internships, we would have better teachers. To me, that's a very, very important factor in having hands-on experience. [Id.].

The applicant recommended by Dr. Campbell was subsequently appointed to the first-grade position by the School Committee.

Positions of the Parties

Appellant contends that the June 19, 1995 School Committee meeting was conducted in an arbitrary and capricious manner, and as a result, the Committee's decision on that date to reject Mr. Scherza's recommendation of Appellant for the first-grade position is likewise arbitrary and capricious. Appellant specifically points to the

⁷ Appellant had served as a substitute teacher in the first grade on a limited basis.

Appellant, the School Committee's action was designed to "discredit Lori Patnaude in public, praise [another applicant] in public and in general to conspire against Lori Patnaude because of town politics and the general distaste the School Committee had for the soon to leave Richard Scherza." [Appellant's brief, p. 3]. In so doing, Appellant argues that the School Committee "broke every rule of decorum, violated the contract and trampled on the rights of Lori Patnaude." [Id.]

The School Committee contends that it acted properly by inquiring in public session into alleged discrepancies in the interview process for the first-grade position. It further argues that the allegations had merit, adversely affected the fairness of the selection process, and properly served as a basis for withholding its consent to the appointment of Appellant. The Committee asserts that it acted within its statutory authority in refusing to consent to the superintendent's recommendation, and that Appellant has not established any contractual or seniority-based right to the first-grade position.

Discussion

Under Rhode Island General Law 16-2-9(a), school committees are vested with "the entire care, control and management of all public school interests of the several cities and towns." R.I.G.L. 16-2-9(a)(13) gives school committees the power to "give advice and consent on the appointment by the superintendent of all school department personnel." Under R.I.G.L. 16-2-9(a)(14), school committees have the authority to "establish minimum standards for personnel, [and] to adopt personnel policies . . ."

R.I.G.L. 16-2-11(a) states that the superintendent of schools "shall, under the direction of the school committee, have the care and supervision of the public schools and shall be the chief administrative agent of the school committee." Under R.I.G.L. 16-2-11(a)7), the superintendent has the power to "appoint all school department personnel with the consent of the school committee."

As public bodies, school committees are subject to the Open Meetings Law, which requires that meetings be open to the public except in certain circumstances. According to R.I.G.L. 42-46-5(a),

[a] public body may hold a meeting closed to the public pursuant to Sec. 42-46-4 for one or more of the following purposes:

- (1) Any discussions of the job performance, character, or physical or mental health of a person or persons . . .

The Open Meetings Law further provides that any citizen of the state who is aggrieved as a result of violations of the provisions of the statute may file a complaint with the Attorney General.⁸

Because a public body may conduct a closed meeting to discuss a personnel matter, the decision whether to close a public meeting for this purpose rests within the discretion of the school committee. Nothing in the Open Meetings Law itself prohibits a school committee from discussing a personnel matter in open session. If a school committee chooses to do so, however, it runs the risk of disclosing confidential information, violating privacy rights, or defaming a person's character. If an individual believes that he or she has

⁸ R.I.G.L. 42-46-8(a).

been harmed in such a manner by a school committee's discussion of a personnel matter in public session, the resulting dispute is not one "arising under any law relating to schools or education"¹⁰ nor is it subject to any particular expertise of the Commissioner of Education. Therefore, any claims directly related to alleged procedural irregularities at the June 19, 1995 School Committee meeting fall within the jurisdiction of other tribunals or agencies, not the Commissioner of Education. As for Appellant's claim that the manner in which the School Committee meeting was conducted resulted in an arbitrary and capricious decision to reject the superintendent's recommendation, our focus is on the substantive merits of the decision reached at¹¹ the June 19, 1995 meeting.

According to the minutes of the meeting, the "[s]tated reasons for the rejection included lack of teaching experience, sympathetic (sic) towards the seniority issue, and dissatisfaction with the selection process itself." [Appellant's Exhibit 8]. We find these reasons, on their face, to be legitimate justification for a school committee to withhold its consent to the appointment of a teacher. In addition, we find these reasons to be supported by the facts of this case.

With regard to teaching experience and seniority, the record shows that Appellant has never held a regular teaching position in Block Island or any other public school system. Appellant's first-

10 R.I.G.L. 16-39-1 and 2.

11 To the extent the School Committee's procedures affected the merits of its decision, our focus includes procedural considerations.

grade teaching experience was limited to sporadic service as a substitute teacher. Another applicant had 20 years of teaching experience, including the past 3 years as kindergarten teacher at the Block Island School, while another applicant had recently completed her student teaching in the first grade.¹²

The record also contains a factual basis for the School Committee's concerns regarding the process by which Appellant became the superintendent's recommendation for the position. Specifically, members of the School Committee expressed their displeasure with the failure of all screening committee members to attend all of the applicants' interviews, the conducting of interviews at home by a screening committee member in the absence of other members, the failure of another screening committee member to meet with two applicants, the lack of consistency in the questions asked of applicants, and the absence of any group discussion by members of the screening committee prior to ranking the applicants. While the last-mentioned criticism concerns the type of selection process chosen by the superintendent, it nonetheless is within the scope of the School Committee's oversight in the exercise of its statutory authority to consent to the superintendent's teacher appointments. The other matters concern significant irregularities in the actual workings of the process chosen by the superintendent, and, as we noted earlier, are legitimate

12 We previously noted Dr. Campbell's testimony concerning the value of student-teaching experience.

reasons for rejecting an appointment.

Conclusion

Applying the laws relating to schools and education, we find that the School Committee did not act unreasonably in rejecting the superintendent's recommendation of June 19, 1995 to appoint Appellant to the position of first-grade teacher.

The appeal is denied.


Paul E. Pontarelli
Hearing Officer

Approved:


Peter McWalters
Commissioner of Education

Date: June 27, 1997

13 As for Appellant's contention that the School Committee acted inconsistently when it approved the superintendent's appointment of an English teacher on June 19, 1995 despite his failure to comply with its earlier directive to include special-education advisory group members on screening committees, we note that the English position was a one-year-only position and the special education advisory group member had no involvement whatsoever in the interview process. Given these facts, we are unable to find that the Committee's consent to the English teacher appointment was an unreasonable exercise of its discretion.