

0030-98

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER
OF
EDUCATION

**JOHN SPOHN
V.
NEWPORT SCHOOL COMMITTEE**

DECISION

Held: The Newport School Committee's decision to close the George H. Triplett School is supportable in light of the history of declining enrollment at the elementary level. Since the decision violates no state law, regulation or policy of the Board of Regents, absent a compelling reason, the decision is upheld as an exercise of the School Committee's administrative authority under R.I.G.L. 16-2-9.

DATE: October 7, 1998

Travel of the Case

On May 19, 1998 the appellant registered an appeal with the office of the Commissioner regarding the decision of the Newport School Committee to close the George H. Triplett School (hereinafter the Triplett School). On June 1, 1998 the undersigned was designated to hear the appeal. By agreement of the parties, hearings were held, in both Providence and Newport, on June 15, 17, and 26, 1998. The parties requested opportunity to submit written argument and the final memorandum was submitted on August 6, 1998. The record in the case closed on that date.

Issue

Was the Newport School Committee's decision to close the Triplett School appropriate and supported by good cause as required by R.I.G.L. 16-2-15?¹

Findings of Relevant Facts

- At the time of the decision to close the Triplett School, it functioned as a highly successful early childhood center housing grades K-2 in the newest school building owned by the City of Newport. Tr. Vol. I, pp. 112-118; Tr. Vol. II, pp. 63-67, 76. Tr. Vol. II, pp. 86-87, 108-109.
- The Triplett School staff was highly motivated and intensively trained in developmentally appropriate teaching practices. The school provided a rich learning environment with extensive individualized instruction and use of hands-on instructional techniques, and had consistently high levels of parental involvement. Tr. Vol. I, pp. 112-118; Tr. Vol. II, pp. 56-67, 109.

¹ The Commissioner is required to consider the propriety of the school's closing, as with other administrative decisions appealed under R.I.G.L. 16-39-2, on a de novo basis. See the decisions of the Board of Regents in Concerned Parents and Teachers v. Exeter-West Greenwich Regional School District, August 24, 1989; Muggle v. Pawtucket School Committee, May 10, 1990; see also Pawtucket School Committee v. Board of

- The Triplett School also functioned as the nucleus of Project Reach, a federally-funded program, the primary goal of which was to effectuate a successful transition of Head Start students into the public school environment. As such, Triplett had received grant resources for equipment, materials, extensive professional development, and other activities funded through the Project Reach grant. Tr. Vol. II, pp. 99, 100-114; Tr. Vol. III, pp. 15-19.
- The Triplett School was the smallest of the city's seven elementary schools, housing approximately one hundred (100) students in six classrooms. S.C. Ex. K; L; Tr. Vol. II, p. 110.
- Newport schools have experienced a period of declining enrollment over the last several years, losing anywhere from 60-100 students districtwide per year in grades K-12. Tr. Vol. III, pp. 8-9, 67. There is no projected increase in enrollment. Tr. Vol. I. p. 208.
- During community-wide discussions of a bond referendum to finance the construction of a new middle school in Newport in 1997, the subjects of class sizes and efficiency of school operations were raised. Tr. Vol. I., p. 203.
- Newport has the highest per pupil educational cost in the state of Rhode Island, with the exception of the town of New Shoreham. Tr. Vol. II, p. 23.
- Throughout school year 1998 a vacancy existed in the position of principal of the Coggeshall School, another Newport elementary school. Tr. Vol. I, p. 203-205.
- In February of 1998 the Newport School Committee was on notice that two elementary-level teachers would be retiring at the end of the 1997-98 school year. Tr. Vol. I., pp. 205-206.

Regents, 513 A2d 13 (R.I. 1986) at pages 17-18. Therefore, the issue is not whether the School Committee's decision was arbitrary and capricious.

- In February of 1998 the Newport School Committee considered several issues: the need to fill the principalship vacancy at Coggeshall School, the issue of the ongoing decline in enrollment and the need to utilize and demonstrate that its utilization of schools was cost effective in terms of both personnel and facilities.²
- The subject of potential consolidation of elementary schools was placed on the agenda for the School Committee’s February 10, 1998 meeting. Appellant’s Ex. 2. Tr. Vol. II. p. 104.
- There was a brief discussion of the consolidation issue at the school committee meeting of February 10, 1998, after which the superintendent was directed to prepare a plan for school consolidation focusing on the Triplett School. She was asked to present her report at the next meeting. S.C. Ex. D. Appellant’s Ex. 3. Tr. Vol. II. p. 105.
- At the March 10, 1998 meeting, the superintendent presented a plan for consolidation which analyzed the advantages and disadvantages of closing the Triplett School and transferring its students and staff to the district’s other elementary schools. S.C.Ex.L; Tr. Vol. II. pp. 106-110. The proposal noted, and the superintendent testified, that the principal and staff at Triplett had requested that the Newport School Committee make a decision on consolidation “in a timely manner in order to make the necessary preparations.” S.C.Ex.L. Tr. Vol. III. p. 51.
- After hearing the proposal and receiving input from the public at the March 10, 1998 meeting, the school committee requested that it be presented with options to closing the school, and the superintendent presented these options at a special meeting held on March 19, 1998. S.C.Ex.M. Tr. Vol. III. p. 42

² Of particular concern to school committee members was the need to garner sufficient political support for a renewed bond referendum for construction of a new middle school or renovation of the existing school. One

- The school committee also received a report at its March 19, 1998 meeting regarding Triplett School programs and their duplication or potential duplication at the other elementary schools. Specific steps needed to expand these programs throughout the other schools were described. Tr.Vol. II, pp. 144-151, S.C.Ex.N.
- After considering the options and information available to it at its March 19, 1998 meeting, the school committee decided to take more time to consider the alternatives and defer action to the meeting scheduled for March 26, 1998. Tr.Vol. I. pp. 164-165; Tr. Vol. II, pp. 24, 144
- At the meeting of March 26, 1998, the Superintendent was asked for her recommendation. Tr. Vol. III, p. 24. She recommended that the program at the Triplett school be retained and expanded to a “full” Early Childhood Center, transferring a total of three classes there from the Sullivan and Underwood schools. The fiscal impact of this option was an immediate savings of ninety-three thousand (\$93,00) dollars³ (overall staff reductions) and a potential future savings of 1.2 million.⁴ Tr.Vol. III, pp. 25,43,45-46; Tr.Vol. II, pp. 133-135.
- The school committee had been advised by its property service director that action on demolition of the metal building at Sullivan School must occur within the next five (5) years. Tr. Vol. III, pp. 59-60

school committee member testified that she perceived the vote to close Triplett as projecting a position of fiscal responsibility, thereby generating support for a future referendum. Tr. Vol. II, pp. 29-31.

³ The classes of the two elementary teachers retiring at the end of the year could be “absorbed” into the remaining elementary classes. Tr.Vol.II, pp. 134-135. We infer from the record that this alternative, with its reduced elementary staffing, had the same impact on class sizes as did the closing of Triplett.

⁴ Relocation of all classrooms from the metal building of the Sullivan School to Triplett School would enable the school committee to save approximately 1.2 million in projected rehabilitation costs for that structure. Tr. Vol. III, pp. 43-45; Vol. II, pp. 133-135

- At its March 26, 1998 meeting, the school committee voted (4 to 3) to consolidate elementary schools by closing the Triplett School and transferring its students into the remaining elementary schools. S.C.Ex.G
- The fiscal impact of this action was an immediate savings of approximately two hundred and forty-seven thousand (\$247,000) dollars.⁵ S.C.Ex.L. Tr.Vol. II, pp. 106-108
- The closing of the Triplett School, and its related cost savings, also enabled the school committee to keep its budget request for the fiscal year 1998-1999 to an increase of approximately eight hundred thousand (\$800,000) dollars over last year's budget. This increase will be funded entirely by increased state aid with no increased financial contribution required from the City of Newport. Tr. Vol. II, pp.138-140
- The closing of Triplett School⁶ increased average class sizes at the elementary level from seventeen (17) to approximately twenty (20) students.⁷ Tr. Vol. I, p. 51. S.C.Ex.K
- Not all members of the public who attended the March 26, 1998 meeting and signed up to speak on the issue of school consolidation were permitted to do so prior to the school committee's vote. Tr. Vol. I, pp. 29, 49-50, Appellant's Ex. 4
- Subsequent to the vote to close Triplett, its teachers were reassigned to other classes during the job fair held on May 20, 1998⁸.
- The principal of Triplett School resigned shortly after the school committee's vote and accepted a position in a neighboring district. Tr. Vol. III, pp. 41, 55-56

⁵ Resulting from reduction (through attrition due to retirement) of two elementary teachers, elimination of one principal's position, a secretary and other related operational cost savings. The Triplett building would remain open because it also houses various administrative offices of the school department.

⁶ Actually the absorption of the two elementary classes.

⁷ Exhibit K does not indicate that average class size increased to 22 students, a fact alleged by the appellant.

⁸ The superintendent testified that the administration and teachers' union agreed to move up the date of the job fair from early June because of a number of math and science vacancies which are difficult to fill later in the school year. Tr. Vol. III, p. 50.

- Since the school committee's action, the classrooms at Triplett have been dismantled and the materials and equipment packed and moved to two other elementary schools. All students have been transferred to other elementary schools. Tr. Vol. II, p. 170
- In the interval between the vote of the school committee, and the filing of this appeal (a period of almost two months), the appellant made attempts to have the school committee reconsider its vote and, when that failed, conferred with other parents to determine a course of action. Tr. Vol. III, pp. 110-113.

Positions of the Parties

The Appellant

In his written memorandum, the appellant takes the position that the decision to close Triplett is arbitrary and capricious. He argues that the decision making process of the school committee was flawed in that the committee immediately identified Triplett as the target for closure without undertaking a comprehensive cost/benefit analysis of closing any of the other six (6) elementary schools. In addition, the extent of deliberation by committee members on a decision of such great importance was totally inadequate and did not allow time for sufficient information gathering and community input. At the crucial point in its considerations when it was preparing to vote among the several options presented by the superintendent, the committee cut off comment from members of the community.⁹ According to Mr. Spohn, these individuals were intent on addressing the merits of the proposals and he implicitly argues that their comments could have affected the outcome of a close vote.

⁹ By limiting comment to members of the public who had not spoken before, i.e., at prior meetings.

From a substantive standpoint, the appellant questions the rationality of a decision to abolish a successful early learning center which had been building momentum over several years. The program's success resulted, in part, from significant federal grant money which had been invested since 1989. The action taken by the committee is of questionable logic, he argues, especially when one considers that the savings obtained, in proportion to the entire school budget, was insignificant. Moreover, the school committee had before it an alternative proposal which preserved and expanded the early learning center (the "ECC option"), offered an immediate cost savings of ninety-three thousand (\$93,000) dollars and promised potential long-term savings in excess of 1.2 million.

The appellant notes in his summary that the motivation for the school committee's action was clearly to "score points with the growing anti-tax constituency." What resulted, he argues, is that the school committee chose to dismantle an innovative and successful school program. It could have maintained and, in fact, expanded that program had it accepted the fiscally competitive and educationally sound option recommended by its superintendent.

The School Committee

Essentially, the school committee's position is that there is nothing irrational about consolidating classrooms and school buildings to operate an educational program in a more cost-effective manner. In light of a history of declining enrollment and relatively small class sizes at the elementary level, the subject of consolidation was responsibly raised soon after the new school committee took office in January of 1998. The timing of consideration of this subject happened to coincide with the subject of filling the principalship vacancy at the Coggeshall School, a vacancy which created the potential of closing a school and not

terminating any principals employed at the elementary level. The prospect of school consolidation was coupled with the impending retirement of two elementary-level teachers and the consequent ability to consolidate classes without terminating any teachers.

Presented with these facts, the Newport School Committee focused on the smallest of its elementary schools, where only sixty-seven (67) students would have to be uprooted and transferred (second graders would be moving on to another school in any event). Counsel argues that there is inherent logic in choosing the least number of students to be affected by a transfer. The school committee proceeded to gather information from administrators, parents, and staff. It solicited additional options after an emotional meeting on March 10, 1998, at which time the advantages and disadvantages of closing the Triplett school were debated. Although there was a somewhat pressing need for a decision on the issue, the committee extended the period for deliberating on the options outlined by the superintendent from March 19 to March 26, 1998. Public comment on the night of the committee's final consideration of these options was limited to those who had not spoken before; however, substantial input from those favoring keeping the Triplett School open had already been received. Indeed, three members of the school committee advocated for retaining the Triplett school program, and voted in support of the Early Childhood proposal on March 26, 1998.

In the end the majority of the school committee voted in favor of closing the Triplett School, transferring its students and staff, and consolidating two classrooms at the elementary level. Counsel submits that the majority were convinced that this action had no negative educational impact. In fact, to the extent programs and practices used at the

Triplett School could be viewed as superior¹⁰ or different from those found at other elementary schools, these “best practices” could be disseminated to other schools through the consolidation. The transfer of faculty (and parents) who were committed to “best practices” and parental involvement would generate such practices at the other schools. In terms of fiscal impact, a substantial annual savings in the overall cost of school operations was effectuated with only modest increases in class sizes at the elementary level.

Counsel argues that this decision is grounded in good cause; i.e. declining enrollment and substantial cost savings. It is also a decision which is exclusively within the authority of the Newport School Committee to make, under state education law. The committee submits that any reexamination of such decisions by the Commissioner would undermine the school committee’s authority and could cause the wheels of the state’s public educational system to “grind to a halt.” If there is disagreement with a decision of this nature, it is argued that the recourse of those who wish to overturn it is in the voting booth.

From a practical standpoint, counsel submits that any reversal of the school committee’s decision at this point in time would result in chaos. Teachers and students have been reassigned, the principal of Triplett has resigned¹¹, and only one new principal has been hired (for the Coggeshall vacancy). Moreover, the cost savings generated by closing the school have been accepted and are relied on by the city of Newport in its 1998-99 municipal budget.

¹⁰ At least one school committee member who supported closure of the school testified that the educational superiority of the system and methods used at Triplett “was still very much an open question.” Tr.Vol.III, p.75.

¹¹ For reasons unrelated to the closure of the Triplett School.

Decision

As a threshold issue we address the argument that the commissioner's review of the decision to close the Triplett School is inappropriate and detrimental to the educational system. Clearly, state law gives local school committees "the entire care, control, and management of all public school interests of the several cities and towns." R.I.G.L. 16-2-9. Equally as clear is the commissioner's statutory responsibility to hear appeals from school committee actions. Under the provisions of Title 16, the commissioner must give independent consideration to the facts and applicable law governing an issue. The Rhode Island Supreme Court has consistently held that §16-39-2 provides aggrieved persons de novo review of school committee decisions by the commissioner of education. Pawtucket School Committee v. Board of Regents for Elementary and Secondary Education, 513 A2d 13 (R.I. 1986). The supreme court has noted that the potential for review by a disinterested person¹² helps to prevent improper decisions, particularly those which are inappropriately swayed by local influences.

Historically, in exercising this de novo authority, the commissioner has sought to act consistently with those provisions of Title 16 previously cited which convey upon local school committees the specific authority to control the public school interests of their respective cities and towns. The commissioner has thus exercised his independent judgement on an issue so as to overturn the decision of a local school committee only when the committee's decision is contrary to state law, regulation, or a statewide educational policy or issue of statewide concern. See Concerned Parents and Teachers v. Exeter-West Greenwich Regional School District Committee, decision of the commissioner dated

November 3, 1989¹³. See also Muggle v. Pawtucket School Committee, decision of the Board of Regents dated May 10, 1990. Coupled with the exercise of voluntary restraint by the Commissioner, review of local education decisions in the context of a formal appeal only serves to strengthen the district's decision making process. Contrary to the assertion that such review undermines efficient school operations at the local level, such review merely requires the initial decision makers to ensure that their decision is supportable, not contrary to state law or policy or swayed improperly by local political concerns. There is an obvious benefit that such review provides in terms of securing statewide uniformity in the administration of education laws.¹⁴

We must observe that in this appeal, review of the Newport School Committee's decision in this case is complicated by the fact that the appeal was taken almost two (2) months after the decision. At the time of hearing, closure of the school had been accomplished, but for the actual moving of packed boxes from one building to another. The delay in filing an appeal resulted in hearings which took place after the school committee's decision was implemented. As the testimony was being presented regarding the vitality of the school, it was abundantly clear that the school no longer existed. Given our conclusion that the closure of the Triplett School should not be overturned, we need not determine how such a delay affects our ability to issue a remedy in this case.

We proceed then to analyze the decision to close the Triplett School. R.I.G.L. 16-2-15 provides that a school committee "shall not abandon, close or change the location of any (school) without good cause." As our findings of fact indicate, ongoing declining

¹² Yet one who is knowledgeable and has an expertise in education law.

¹³ A case in which the Board of Regents remanded the issue for the exercise of the commissioner's independent judgement on the issue of interchanging classrooms. The commissioner's original decision was found to be flawed in that he had limited his role to a determination of whether the school committee's action had been arbitrary and capricious. See decision of the Board of Regents dated August 24, 1989.

enrollment, and corresponding small class sizes¹⁵ at the elementary level existed at the time the members of the school committee considered the issue of consolidation of schools/classes. Such declining enrollment, without foreseeable increases, constitutes good cause for closing a school. See Bradford Save Our School Committee v. Westerly School Committee, decision of the commissioner dated September 21, 1981; Veazie Street School Advisory Committee v. Providence School Board, decision dated August 27, 1980.

Action on consolidation in February-March of 1998 was made more attractive by the fact that it could be accomplished without layoffs of administrators or certified staff. The small size of the Triplett school made it a logical target for closure. There were documented disadvantages to closing Triplett, which were presented to and considered by the School Committee. There was strong evidence of the school's "success," as defined by those integrally connected with Project Reach. Large amounts of federal funding had been invested in the development of the Triplett program at the site and in the staff of the school. The very fact of this appeal and the parental support provided to Mr. Spohn in presenting this case attest to the success of the parental involvement aspect of the program. The school committee remained unswayed by the disadvantages of the Triplett closure. Even though such factors may be found persuasive at this level, they are not compelling enough to overturn the local district's decision.

The cost savings effectuated by the school's closure also constitute the required good cause. A savings of \$247,000.00 in operating costs constitutes only a small percentage of the district's operating budget, but it cannot be viewed as an insignificant savings. The more important fiscal implication of the decision was that it enabled increases in the 1998-99 school

¹⁴ See Appeal of Cottrell, 10 R.I. 615, 618 (1873)

¹⁵ The superintendent described existing class sizes as "very reasonable." She perceived the proposed change in the existing class sizes as a disadvantage to closing Triplett. Tr.Vol.II, p. 108.

budget to be funded exclusively by state, rather than local dollars. Maintaining the amount of the prior year's local contribution to schools complies with the provisions of R.I.G.L. 16-7-23. The record contains no information concerning how increased state education aid to the city of Newport for fiscal 1999 has been expended or is budgeted for expenditure. We have no evidence that targeted funds established in Article 31 are improperly budgeted or that efforts described in the district strategic plan remain unfunded. Without evidence of any impropriety, the district was not required by state law to increase its local contribution to schools beyond the 1997-1998 level. While there may be a recognized educational strategy in teaching young students in smaller classes and in a small school environment, there is no state law, regulation or policy which requires maintaining a small school or low class sizes at the elementary level. Stated another way, the school committee was free to consolidate schools and classrooms to operate its program more cost efficiently.

The record indicates that at least some of the members of the committee perceived the vote to close Triplett as a necessary step in generating local political support for a future bond referendum.¹⁶ In context, then, the Triplett decision involved complex and competing interests of the school district, and a need to be sensitive to its political context. Since the decision violates no state law, regulation or statewide educational policy, and since we find no compelling reason to overturn the vote of the school committee, the decision is upheld. The appeal is denied and dismissed.

Kathleen S. Murray, Hearing Officer

APPROVED:

Peter McWalters, Commissioner of Education

October 7, 1998

DATE

¹⁶ A middle school bond referendum had already been rejected by voters in 1997.