

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF  
EDUCATION

.....

**Children First Coalition**

v.

**Providence School Board**

.....

**DECISION**

Held: In this appeal the Children First Coalition is contesting decisions of the Providence School Board with respect to the processes for selection and naming of the superintendent of schools. This appeal is denied and dismissed due to a lack of standing on the part of the petitioners.

DATE: August 27, 2003

## Travel of the Case

A group with the title of *The Children First Coalition* has filed an appeal with the commissioner under R.I.G.L. 16-39-1 and 16-39-2 alleging that:

[T]he Children First Coalition is filing an appeal to contest the decisions of the Providence School Board to change the process for selecting the Superintendent of Providence schools and the naming of Dr. Melody Johnson as the new permanent Superintendent of Providence Schools. Both of these decisions were made on an emergency basis. The Children First Coalition contends there was no emergency to justify these decisions and as such, the decisions violated the By-laws of the Providence School Board. Moreover, these actions violate the Rhode Island Open Meetings Law, federal and state equal employment opportunity and non-discrimination laws, and Rhode Island General Laws 16-2-9 [General powers and duties of school committees].

The respondent *Providence School Board* has filed a motion to dismiss this appeal on several grounds, including lack of standing on the part of the *Children First Coalition*. We find the issue of standing to be dispositive, and so we will grant the motion of the *Providence School Board* to dismiss this appeal.

## Preliminary Matters

At the outset we note that the petitioners have alleged that the school committee violated the *Rhode Island Open Meetings Law* when it made the appointment now at issue. The Superior Court however has exclusive jurisdiction to hear complaints involving the *Open Meetings Law*.<sup>1</sup> Since we have no jurisdiction in this area we must dismiss, without prejudice, any claims relating to the *Open Meetings Law*.

The respondent *Providence School Board* has alleged that only an attorney admitted to the Rhode Island Bar can bring an action of this nature on behalf of a private association. It points out that the individual who filed this appeal is not an attorney. We find, however, that the law on this issue is unclear enough in this state so that the better part of wisdom on this issue is to leave its resolution to those having jurisdiction over the practice of law.

## Standing—Conclusions of Law

The petitioners in this case have not articulated any definable injury that they suffered as a result of the appointment of the superintendent. They were not applicants for the position; they have lost no money as a result of the appointment, and they have suffered no abridgment of any rights personal to them. They may be *dissatisfied* with the appointment made by the school

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<sup>1</sup> R.I.G.L. 42-46-8

committee, but this is not the same as being *aggrieved* by the appointment.<sup>2</sup> Under Rhode Island law an individual must be aggrieved by some decision or doing of a school committee before that person can appeal to the commissioner.<sup>3</sup> It is not enough to allege that the school committee has failed to act in conformity with the law. To maintain an action based upon an alleged failure to act in conformity with the law the petitioners would have to show how this failure to conform injured them in some way personal to them.<sup>4</sup> The Rhode Island Supreme Court has held that:

In this state it was long ago settled that "Suits for the public should be placed in public and responsible hands." *O'Brien v. Board of Aldermen*, 18 R.I. 113, 116. The public officer vested with that authority is the attorney general of the state. Only he may sue to redress a purely public wrong except in those instances where one of the public who is injured has a distinct personal legal interest different from that of the public at large, as where a public office is being withheld from the rightful incumbent thereof. In such a case the *claimant of the office* may petition this court *in his own name* for the proper prerogative writ.... [emphasis added]

Specifically we note that the *Children First Coalition* lacks standing to bring claims based upon state and federal equal opportunity laws anti-discrimination laws since the Coalition was not, of course, an applicant for the position of Superintendent.<sup>5</sup> The *Coalition* has suffered no personal injury by virtue of the appointment that was made in this case.

### Conclusion

The Appeal is denied and dismissed due to a lack of standing on the part of the petitioners.

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Forrest L. Avila, Hearing Officer

APPROVED:

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Peter McWalters, Commissioner

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August 27, 2003  
Date

<sup>2</sup> *Clay v. Fort Wayne Community Schools*, 76 F.3d 873 (7<sup>th</sup> Cir. 1996)

<sup>3</sup> R.I.G.L. 16-39-1 and R.I.G.L. 16-39-1.

<sup>4</sup> *West Warwick School Committee v. Souliere*, 626 A.2d 1280 (R.I.1993)

<sup>5</sup> *Clay v. Fort Wayne Community Schools*, 76 F.3d 873 (7<sup>th</sup> Cir. 1996)