

Commissioner's Decision  
Providence Public Schools  
Request For Variance to the Library Staffing Requirements  
of the Basic Education Program Regulations

The request of the Providence Public Schools for an ongoing variance to the Basic Education Program Regulations' requirements for library staffing is denied. For more than a year the district has been temporarily authorized to operate with less than the staffing levels required in the BEP regulation in your high school libraries in order to determine if student needs could be adequately met through alternate means to full staffing. During that period of time Department of Education staff have gathered information regarding the impact of the proposed variance on services to students in the affected Providence schools. We have considered the information presented by the district concerning the alternate manner in which you would meet the needs of your students and find that there is not substantial evidence that meaningful student access to appropriate and sufficient library and media center resources in support of instruction can be maintained without full staffing of your high school libraries.

The legal standard for the granting of a variance to the regulations places the burden of proof on the district requesting the variance. The burden that must be met is that the district must demonstrate that the purpose of the underlying regulation will be met through alternate means. In no case can a variance be granted if the basis of the variance is simply that the thing required to be done by the regulation will not be done because it

is not supported by sufficient budgetary resources or is otherwise difficult, expensive or impractical.

Instead, the variance process is designed to enable a school district to fulfill the goals of the regulation through an alternative means to that prescribed in the regulation. An example of this would be the bus monitor variance process. The goal of the bus monitor regulatory requirement is to ensure the safety of young children as they get on and off the school bus. One variance to the monitor requirement is same-side-of-street drop off for young students. In this example the goal of the regulation is fully met – but through an alternate means. Thus a variance can be granted relieving the district of the staffing requirement for monitors because the educational purposes (delivering young children to and from school safely) can be fully met and there is no reduction of services for those children.

Applying this concept to the staffing requirements for libraries contained in the BEP we must first examine the underlying purpose for requiring that each library in a school with more than 1000 students must be staffed by two certified library/media specialists and one library circulation clerk.

The purpose of this staffing requirement is to ensure:

- Continuous access throughout the school day and in the after school hours for all students to Library/Media Services resources

- Maintenance and restocking of an up-to-date library/media center with appropriate physical collections and technology access to information resources
- Support to classroom teachers in conducting their instructional activities through the availability of research and information resources aligned to the curriculum
- Support to classroom teachers in designing and implementing learning activities that make full use of the information resources found in an up-to-date library/media center

The question that this department must address in weighing the request for a variance to the library staffing regulations is: Has the district presented substantial evidence that the educational purposes of the library staffing regulation have been met with the reduced staffing proposed by the district?

In the second year of operating under the temporary approval of the variance there has been ample opportunity provided for the district to make its case that the goals of the regulation are being met by the district without the regulatorily required library staff in place. The unavoidable conclusion based on this department's gathering of information about the impact of the district under-staffing of libraries is that there is no evidence that the goals of the regulation are being met through alternate means.

The district has provided no information to this department that would suggest that the above-articulated goals of the library staffing regulation are being met. Instead, the district essentially suggests that the staffing requirement is out-dated in that there are

information technology resources (access to the internet) available to students today that were not available to them when the regulation was put in place. This argument is unpersuasive. Department staff have requested extensive information from the district and from experts in the field of library and media services. The district was unable to provide evidence that the libraries in the four comprehensive high schools in Providence that are covered by this regulation are continuously available to students throughout the school day and in the after school hours, that the libraries are up-to-date and the collections are being properly maintained and updated, and that the library staff are meaningfully available to their faculty colleagues for purposes of aligning information resources to the curriculum and instructional activities of the schools.

Information gathered from the Rhode Island Educational Media Association indicates, to the contrary, that, not surprisingly, student access to library services has significantly declined during the trial period of the temporary variance, that the library staff have not been able to maintain professional standards in terms of maintaining and updating collections *including the electronic resources upon which the district relies in requesting this variance and which are not properly maintained and supported for student use*, and that there is little coordination of curricular and instructional activities with classroom teachers as a result of the limited access of those teachers to library media specialists. Further evidence of this inability to meet student library learning needs without adequate staffing is the decision by the University of Rhode Island program to discontinue the placement of librarians in training in Providence public school libraries affected by the variance request due to the fact that those libraries are not sufficiently operational to

support the learning of librarians in training in appropriate ways. As a result, a variance cannot be granted and the library staffing must be instituted at the regulatory level for the 2005-2006 school year.

This department is however persuaded by the district's expressed concern that staffing at the regulatory level does not, in itself, ensure that the educational goals of the regulation are met. The district correctly points out that even with appropriate staffing, student access to the internet that is meaningful for instructional and learning purposes and maintenance of information services is more than simply a staffing issue. In fact, compliance with the staffing ratio alone is a necessary but not sufficient condition for meeting the regulatory requirements for a high quality library/media center program for Providence high school students enrolled in the district's larger high schools.

Thus, this department is putting in place a monitoring system for the implementation of the re-staffing of the Providence high school library/media centers in the larger high schools. The library/media center staff for each of the four involved schools will be assigned a library/media center mentor, to be selected by the Coordinator of the School Library/Media Specialist Program at the University of Rhode Island and to be drawn from the ranks of the RIEMA. Each peer mentor will serve as a volunteer and will work with the staff assigned to the high school libraries covered by the staffing regulation at issue in this variance request.

This peer mentoring process will result in a quarterly report to this department for each of the four libraries at issue. The report will include specific information about the quality of the program being implemented on the criteria set forth in this decision:

- Continuous access throughout the school day and in the after school hours for all students to Library/Media Services resources
- Maintenance and restocking of an up-to-date library/media center with appropriate physical collections and technology access to information resources
- Support to classroom teachers in conducting their instructional activities through the availability of research and information resources aligned to the curriculum
- Support to classroom teachers in designing and implementing learning activities that make full use of the information resources found in an up-to-date library/media center

This department will retain jurisdiction of the staffing of the Providence libraries in high schools with more than 1000 students enrolled for purposes of determining whether the full staffing of the library/media centers at regulatory levels has resulted in the fulfillment of the educational goals of the staffing regulation. If, based upon the quarterly reporting called for in this decision, these educational goals are not being met despite full staffing then this department will revisit the issue of staffing in the four schools for the 2006-2007 school year and will develop another remedy to ensure that the educational purposes of the library regulations are being met.

This decision is made in recognition of the limited financial resources available to the district and the looming deficit the district confronts for the 2005-2006 school year. Some elements of programming for students have been elevated to regulatory protection in the BEP because they have been determined by educational experts, through the regulatory process, to be minimum necessary entitlements for students to receive an adequate and appropriate public education. These minimum entitlements cannot be reduced by Commissioner action once enshrined in regulation. They must be delivered through alternative means (the variance process) or the regulation must be revised through the regulation promulgation process with a full opportunity for open debate by the educational community and the public as to whether this educational entitlement for students is no longer necessary and relevant due to changes in the educational field.

In the absence of such a change it is this department's duty to uphold those educational entitlements of students that have found to be the "basic" or minimum necessary elements of an effective public education. There are other education programs and services that are not afforded regulatory protection and are not considered "basic" or minimum necessities and it is these that will no doubt be impacted by this decision to uphold student rights to high quality, meaningful library/media services access.

This weighing of the importance and essential character of various elements of a basic education program set of entitlements will be fully explored as the Board of Regents moves forward with its announced intention to revisit the BEP regulations and to update the regulatory requirements for the basic essential elements of an effective public

education. We are confident that your district will participate vigorously in this process and will have important perspectives to share on behalf of your students in this regard.

The department looks forward to working with the district to develop a plan for the restaffing of the effected libraries and for putting in place the peer mentoring and monitoring discussed more fully above.

Peter McWalters  
Commissioner

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