



East Providence School Committee

80 BURNSIDE AVENUE
EAST PROVIDENCE, RI 02915-3295

BOARD OF REGENTS FOR
ELEMENTARY AND SECONDARY EDUCATION



MILDRED S. MORRIS
CHAIR

OFFICE OF THE
COMMISSIONER

September 24, 2008

Mr. Peter McWalters
Commissioner of Education
Rhode Island Department of Education
255 Westminster Street
Providence, Rhode Island 02903

Dear Commissioner McWalters:

The East Providence School Committee ("Committee") is unable to complete the fiscal year ending on October 31, 2008 with a balanced budget, despite efforts throughout the year to do so. We therefore ask that the Commissioner grant the waivers set forth below, which if allowed, could enable the Committee to close this deficit. A brief history of the budget year follows.

By early 2008, it became clear that the School Department's budget of \$73,194,231 for fiscal year 2007-2008 would fall short by more than \$3 million. The Committee sought to resolve the deficit collaboratively with the City Council in joint workshops and meetings. The Council and Committee voted unanimously to endorse a deficit reduction plan in April 2008, and communicated and met with the Rhode Island Auditor General, most recently in May 2008. The deficit reduction plan did not, however, receive the approval of the Auditor General. Other efforts to close the budget deficit, including seeking assistance from state agencies and mid-term concessions from unions, were largely unavailing.

Superintendent Jacqueline Forbes resigned effective August 4, 2008. Dr. Mario Cirillo, Ed.D., was appointed Superintendent on August 17, 2008. He promptly notified the Committee of a projected deficit for fiscal year 2007-2008 of approximately \$3.2 million.

The Committee is unable to operate the East Providence School Department within the approved budget through the close of fiscal year 2008 and at the same time adhere to mandates imposed by federal and state law, collective bargaining agreements, and state regulation. The Committee

The East Providence School Department, in partnership with families and the community, is committed to provide a comprehensive, inclusive program of academic excellence in a safe, nurturing environment preparing all students to become responsible, life-long learners able to meet the challenges of the 21st century.

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The East Providence School Department does not discriminate on the basis of age, sex, sexual orientation, race, religion, national origin, color or handicap in accordance with applicable laws and regulations.

is therefore now requesting the following waivers from the Commissioner of Education, in accordance with R.I. Gen. Laws § 16-2-21.4(a).

- (1) Relief from any and all regulations or requirements that would be affected if the Committee were to suspend the operation of school in the City of East Providence from October 13, 2008 through October 31, 2008. The Committee proposes that the fourteen school days¹ be made up through the elimination of all five days allocated for February break (February 16 through 20, 2009), one of the five days allocated for April break (April 13 through 17, 2009), and by extending the school year until June 30, 2009. By deferring the operation of these October school days until fiscal year 2008-2009, the Committee would remain in compliance with R.I. Gen. Law § 16-2-2 (requiring at least 180 days of school). The proposal, however, would likely affect the ability of East Providence students to complete the New England Common Assessment Program (“NECAP”) testing scheduled by the Rhode Island Department of Education (“RIDE”) to take place from October 1 through 23, 2008. In addition, the proposal would likely affect services to those students from the municipalities of Bristol, Warren, and Barrington, who are enrolled in the vocational program at the East Providence Career and Technical Center.² Consequently, the Committee seeks a waiver or relief from compliance with these requirements, and from any others that may be implicated by such proposed change in the school calendar.
- (2) For the period October 1 through October 31, 2008, waive the requirement of the Basic Education Plan (“BEP”) (BEP at Topic 32(a) & (b)), that the Committee provide busing services for all public school students residing in the City of East Providence, other than those who have special needs and are serviced in out-of-district placements.

In addition, the Committee makes the following request of RIDE: Comply with the BEP and regulatory mandates that the Director and two guidance counselors at the East Providence Career and Technical Center be funded by the state for fiscal year 2007-2008.³ In addition, the Committee asks that RIDE facilitate the retroactive payment to the Committee for all years in which the state did not provide such funding.

The Committee does not believe that the waiver proposals advance the educational interests of the students of East Providence. Rather, it seeks such relief out of fiscal necessity, and to

¹ October 13 is a legal holiday.

² As of the date of this writing, eighteen (18) students of the approximate 500 at the school come from Bristol, Warren and Barrington. A number of these are students with special needs.

³ See Regulations of the Board of Regents Governing the Management & Operation of Area Vocational-Technical Centers in Rhode Island, Part IV at 2 & 3 (adopted July 19, 1990). See also BEP at Topic 40-A(m) & Topic 40-B(b).

comply with R.I. Gen. Laws § 16-2-21.4. We would be grateful for any additional or alternative advice that you and your staff can offer to further the conservation of our extremely limited resources.

Kindly address any questions or concerns you might have regarding the above to: Superintendent Mario Cirillo, Ed.D. or legal counsel at Little Medeiros Kinder Bulman & Whitney. We look forward to your prompt response.

Sincerely yours,



Mildred Morris
Chairperson
East Providence School Committee

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State of Rhode Island and Providence Plantations
DEPARTMENT OF EDUCATION
Shepard Building
255 Westminster Street
Providence, Rhode Island 02903-3400

Peter McWalters
Commissioner

October 6, 2008

Ms. Mildred Morris, Chairperson
East Providence School Committee
80 Burnside Avenue
East Providence, Rhode Island
02915-3295

Dear Chairperson Morris,

Thank you for your letter of September 24, 2008 in which you request that I grant certain regulatory waivers or allow alternative regulatory compliance methods in accordance with R.I.G.L. §16-2-21.4 to help the East Providence school committee to cope with a fiscal deficit. As you know, the Commissioner of Education cannot waive compliance with (1) state statutes, (2) federal statutes or regulations, (3) collective bargaining agreements, or (4) court decisions. Furthermore, the Commissioner's authority to grant waivers or to allow alternative methods of compliance with state educational regulations is narrowed by the terms of R.I.G.L. §16-2-21.4, which prohibits waivers or alternative methods of compliance, "which affect the health and safety of students and staff or which violate the provisions of chapter 24 [Duty of school committee to provide special education] of this title...."

With these constraining limitations in mind I will respond to each one of your requests:

1. Request: Permission to close the East Providence Public Schools from October 13, 2008 through October 31, 2009.

1. Response: We construe this request as a petition to change the school calendar submitted by East Providence to the Commissioner of Education. This request seems self-defeating since it only transfers a deficit to a following fiscal year without any showing that the school committee's fiscal position will so improve that the committee will be able to make up this deferred deficit in the following fiscal year. Since there is no showing that the granting of this request would not simply compound the fiscal difficulties faced by the committee, the request must be denied.

2. Request: Waive the school committee's obligation to provide transportation to students other than to those who have special needs and who are serviced in out-of-district placements.

2. Response: This waiver must be denied since transportation services are required by statute (R.I.G.L. §§16-21-1 and 16-21.1-1) rather than by regulation. The Commissioner has no authority to waive statutes enacted by the General assembly.

3. Request: That the Board of Regents fund the Director's position and two guidance positions at the East Providence Career and Technical Center for the fiscal year 2007-2008. In addition, the committee asks that RIDE facilitate the retroactive payment to the Committee for all years in which the state did not provide such funding. See: Regulations of the Board of Regents Governing the Management & Operation of Area Vocational-Technical Centers in Rhode Island, Part IV at 2 & 3. "The director's salary, fringe benefits, and travel expenses shall be set by the school committee with the approval of the Commissioner of Education and shall be reimbursed 100% by the state."

3. Response: The General Assembly has elected not to make the appropriation requested. The regulations of the Board of Regents obviously cannot require the General Assembly to make an appropriation. More specifically, the law establishing the powers of the Board of Regents provides at R.I.G.L. §16-60-4 (5) (ii) that: "In the preparation of the budget, the regents shall determine priorities of expenditures for elementary and secondary education purposes of state revenues and other public resources made available for the support of public ...education among the various education agencies of the state. Nothing contained in this section shall authorize any individual or group of individuals to reallocate resources in a manner other than that prescribed in the budget as appropriations by the general assembly." Given this statutory requirement the request must be denied.

I appreciate your committee's thoughtful efforts in submitting the waiver requests that you have made. The fact is, however, that experience has taught me that allowable regulatory waivers are difficult to find, and that they are not apt to result in significant savings. This is because school costs are essentially determined by (1) state statutes, (2) federal statutes or regulations, (3) collective bargaining agreements, or (4) court decisions -- all items which do not properly fall within my very limited waiver jurisdiction. My staff will continue to remain in touch with you to see what technical assistance we can give the East Providence school committee in this very difficult situation.

Sincerely,



Peter McWalters
Commissioner of Education

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