



**CITY OF NEWPORT  
SCHOOL COMMITTEE**

437 Broadway  
Newport, Rhode Island 02840-1767  
Telephone: (401) 847-2100  
Facsimile: (401) 849-0170

BOARD OF REGENTS FOR  
ELEMENTARY AND SECONDARY EDUCATION

OFFICE OF THE  
COMMISSIONER

**Dr. Charles P. Shoemaker, Chairperson**  
**David R. Carlin**  
**Hugo J. DeAscentis, Jr.**  
**Jo Eva Gaines**

**Robert J. Leary, Vice Chairperson**  
**Dr. Thomas P. Galvin**  
**Thomas S. Phelan**

Certified Mail/Return Receipt Requested No. 7005-1160-0004-7930-0924

July 25, 2008

Peter McWalters, Commissioner  
Rhode Island Department of Education  
Shepard Building  
255 Westminster Street  
Providence, RI 02903-3400

Dear Commissioner McWalters:

I am writing as Chairperson of the Newport School Committee to ask that the current issue related to fulfilling the mandated guidance position at the Newport Area Career and Technical Center, NACTC, be resolved as soon as possible.

We are aware of the regulation that NACTC is required to have a full-time guidance counselor, but we are also aware that the State is mandated to reimburse the NACTC for the cost of this position and the cost of the director of the Center, but there has been no State reimbursement for these positions for several years.

You are also probably aware that the enrollments at Rogers High School and the Career and Technical Center have been decreasing dramatically. In September, the Rogers High School enrollment is projected to be slightly fewer than 600 students and approximately 210 part-time students at NACTC. Of the total students at NACTC, 150 will come from Rogers High School. Last year, we had three (3) full-time guidance counselors at Rogers High School and one (1) at NACTC.

The City of Newport has flat funded us in past years, but this year decreased the funding based on the decrease in enrollment in accordance with State law. Based on the fact that our revenue from the City is decreasing, that the mandated position of guidance counselor at NACTC is not being reimbursed by the State, and that the committee felt that four (4) guidance counselors are simply too many, given the standard counselor-to-student ratio, the School Committee raised the question as to whether or not we should have a full-time guidance counselor at NACTC and couldn't we ask the three (3) guidance counselors at Rogers High School to cover both Rogers

and NACTC. The School Committee responded by tabling the vote to rehire the Rogers High School counselor until we receive some information from the State.

Our Superintendent has been in contact with Mr. Uvin in an effort to resolve this issue. The Superintendent has advised us that not filling a State mandated position might have legal ramifications, unless we obtain a variance from the State. The School Committee has voted to ask for this variance.

One of the requirements is that the notice of a variance being requested has to be posted for 20 working days prior to a hearing with the State. The soonest that we can arrange such a meeting is on August 21st . We have laid off the least senior guidance counselor who is assigned to Rogers in anticipation of a positive response to our variance request, at which time the counselor from NACTC would become one of the three (3) guidance counselors at Rogers High School.

This means that the person, who had been the guidance counselor at NACTC last year, will not be able to assume his new position until, at the earliest, a week or two before school starts. I would imagine this has caused the individual guidance counselor anxiety, but members of the School Committee have expressed concern that we might not be in compliance with State mandates.

I am not cognizant of the reasons why the request for a variance should require 20 working days before a meeting. My only experience with requesting variances was when the School Committee voted to pursue a Caruolo action in 2005. We requested variances and immediately the Commissioner responded within two weeks denying the variances.

In this case, I think the choices are:

1. The State agrees to reimburse Newport, and we rehire the Guidance Counselor.
2. Deny the request for a variance and force the Newport School System to pay for the position in the face of decreasing reimbursement and enrollment.
3. Grant the variance and have the three (3) guidance counselors at Rogers High School cover NACTC.
4. If the variance is refused, the NSC might defy the state mandate by refusing to appoint a fourth counselor.

Because the long period required to obtain a hearing for a variance is causing anxiety within the teaching community, and the resolution of this issue will not require a significant amount of fact finding, we request that the variance period be shorten and the issue be resolved as soon as possible.

Sincerely,



Charles P. Shoemaker, M.D.  
Chairperson, Newport School Committee



NEWPORT PUBLIC SCHOOLS

John H. Ambrogi, Ed.D.  
*Superintendent of Schools*  
437 Broadway

Newport, Rhode Island 02840-1739

Phone: (401) 847-2100

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E-mail: jackambrogi@mail.ri.net

OFFICE OF THE  
COMMISSIONER

July 18, 2008

Mr. Peter McWalters,  
Rhode Island Commissioner of Education  
Shepard Building  
25 Westminster Street  
Providence, RI. 02903-3400

Dear Mr. McWalters,

Please find attached a notice of a Public Hearing regarding a request for a variance for the requirement from the Rhode Island Board of Regents Regulations that Newport Area Career and Technical Center appoint a guidance counselor to serve the youngsters in the center.

Please contact me with any questions.

Sincerely,

John H. Ambrogi, Ed.D.  
Superintendent of Schools

JHA:jem

NEWPORT PUBLIC SCHOOLS  
NEWPORT, RHODE ISLAND  
847-2100

## **LEGAL ADVERTISEMENT**

### **Notice of Public Hearing**

Newport School Committee will have a public hearing on Thursday, August 21, 2008 at 4 p.m. at Thompson Middle School to discuss the following Variance Request:

The Newport School Committee hereby seeks a variance from Regulation, Section IV, Staffing, 3 and 6 of the Regulations of the Board of Regents Governing The Management and Operation of Area Vocational-Technical Centers in Rhode Island dated July 19, 1990, which require that area vocational-technical center guidance counselors be appointed.

In explanation of this variance request the Newport School Committee states the following:

Of approximately 210 part time students at the Newport Area Career and Technical Center (NACTC) approximately 150 are students who attend Rogers High School. With a total enrollment projected to be under 600 students, the three guidance counselor positions at Rogers High School should be sufficient to address the needs of the 450 regular and 150 part-time career and technical students. The 60 students from the sending districts already have guidance counselors in their own high schools who will interact directly with the Director of NACTC on issues regarding curriculum and grades. It is believed this is sufficient to address the needs of all students.

Notice of this meeting to discuss the Variance request has been sent to the following:

1. Commissioner of Education
2. Teachers' Association of Newport
3. Council 94
4. Superintendent of the Tiverton School Department
5. Superintendent of the Portsmouth School Department
6. Superintendent of the Middletown School Department
7. Superintendent of the Little Compton School Department

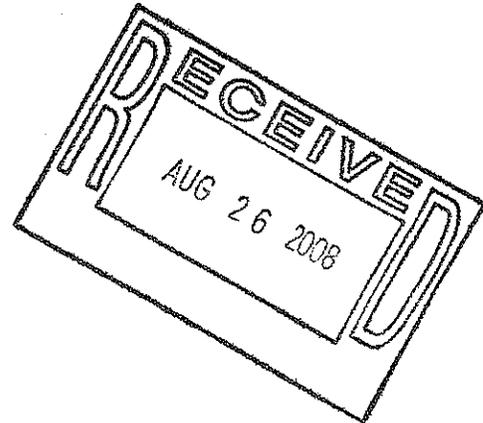


NEWPORT PUBLIC SCHOOLS

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BOARD OF REGENTS FOR  
ELEMENTARY AND SECONDARY EDUCATION

OFFICE OF THE  
COMMISSIONER



**Via Certified Mail 7005-1160-0004-7930-1020**

August 22, 2008

Peter McWalters, Commissioner  
Rhode Island Department of  
Elementary and Secondary Education  
Shepard Building  
255 Westminster Street  
Providence, RI 02903-3400

Dear Commissioner McWalters:

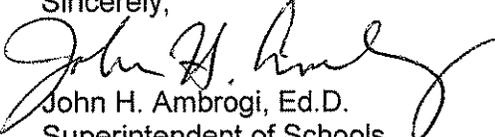
This letter is to request a Variance from the Regulations of the Board of Regents Governing the Management and Operation of Area Vocational-Technical Centers in Rhode Island dated July 19, 1990, which require that area vocational-technical center guidance counselors be appointed.

The Public Hearing was legally advertised with the required advance notification to interested parties. The Hearing was held last evening, August 21, 2008, at 4 p.m., at Thompson Middle School. Public Input was solicited but no member of the public responded.

I reviewed the rationale as listed in the Notice of the Public Hearing for the Variance Request, and the Committee voted unanimously to forward the Request for a Variance to you—with an additional request that you provide us with an expedited Decision, so that we may begin school with a clear understanding of how our students will be distributed among the several Guidance Counselors at Rogers High School. The Newport Public Schools and the Newport Area Career and Technical Center begins their school year on Wednesday, September 3, 2008.

We appreciate your prompt response to this Variance Request. Please do not hesitate to contact me immediately if you have any further questions regarding this matter.

Sincerely,

  
John H. Ambrogi, Ed.D.  
Superintendent of Schools

JHA:wjg

Enclosures

Cc: Newport School Committee  
Teachers' Association of Newport  
Council 94—Local 841  
Superintendent of Schools, Tiverton Public Schools  
Superintendent of Schools, Portsmouth Public Schools  
Superintendent of Schools, Middletown Public Schools  
Superintendent of Schools, Little Compton Public Schools

NEWPORT PUBLIC SCHOOLS  
NEWPORT, RHODE ISLAND  
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2. Teachers' Association of Newport
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4. Superintendent of the Tiverton School Department
5. Superintendent of the Portsmouth School Department
6. Superintendent of the Middletown School Department
7. Superintendent of the Little Compton School Department

**NEWPORT SCHOOL COMMITTEE**  
**Special Meeting**  
Thursday, August 21, 2008, 4:00 p.m.

**MINUTES**

**Call to Order.** Chairperson Dr. Charles P. Shoemaker called the Special Meeting of the Newport School Committee to order at 4:00 p.m. at the Thompson Middle School Beatrice Berman Bazarsky Performing Arts Center and Cafeteria.

**Roll Call.** Attendance was as follows: School Committee Members: Chairperson Dr. Charles P. Shoemaker, Vice Chairperson Robert J. Leary, David R. Carlin, Hugo J. DeAscentis, Jr., Jo Eva Gaines, Dr. Thomas P. Galvin (absent), and Thomas S. Phelan; School Department: Superintendent of Schools John H. Ambrogi, Ed.D., Business Manager Michael Saunders, and School Committee Counsel Neil P. Galvin.

- 1.0 PUBLIC HEARING: Request a Variance from the Board of Regents.** The School Committee had a public hearing on Thursday, August 21, 2008, at 4 p.m., at Thompson Middle School to discuss the Variance Request relative to: "The Newport School Committee hereby seeks a variance from Regulation, Section IV, Staffing, 3 and 6 of the Regulations of the Board of Regents Governing The Management and Operation of Area Vocational-Technical Centers in Rhode Island dated July 19, 1990, which require that area vocational-technical center guidance counselors be appointed." Public Input was solicited but no member of the public responded. Discussion followed. Mr. Carlin made a motion to seek a variance and request that the Commissioner expedite the Decision. Mrs. Gaines seconded the motion, which carried unanimously (6-0).

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**Charles P. Shoemaker, M.D.**  
Chairperson

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**John H. Ambrogi, Ed.D.**  
Clerk



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

Peter McWalters  
Commissioner

August 29, 2008

Dr. John H. Ambrogi  
Superintendent of Schools  
Newport Public Schools  
437 Broadway  
Newport, Rhode Island 02840-1739

Dear Dr. Ambrogi:

My office has received your letter of August 22, 2008 in which you indicate that the Newport school committee, in accordance with the *Protocol for Granting Variances to Regulations of the Board of Regents*, has completed the process necessary to submit a request for a variance to the *Regulations of the Board of Regents Governing the Management and Operation of Area Vocational-Technical Centers in Rhode Island*.

The regulation for which a variance is being sought, and from which you request relief, requires the *Newport Area Career and Technical Center (NACTC)* to, itself, employ guidance counselors at the Center. Your letter indicates that if the requested relief is granted, the guidance counselors at Rogers High School will be able to provide guidance services to Newport students who attended NACTC. Your letter further indicates that out-of-district students who attend NACTC will receive guidance counseling services from their respective home districts, in cooperation with administrative staff at NACTC. Your correspondence in this matter is hereby incorporated by reference and will be taken as delineating the manner in which guidance services at NACTC will be provided, if your variance request is granted.

From your correspondence, we find that the required public hearing required by the Board of Regents' *Protocol for Granting Variances to Regulations* was held and that more than adequate notice of this hearing was provided. No adverse comments to your waiver request were made at the public hearing.

Based upon the correspondence you have submitted, I find that you have demonstrated that there is no need for the NACTC to itself employ guidance counselors to ensure that students at NACTC receive appropriate guidance counseling services. Instead, such services will be provided by Rogers High School guidance counselors and by guidance counselors employed by sending school districts. Your request for a variance is therefore granted.

Sincerely,

Peter McWalters  
Commissioner

PM(fla)scp

Telephone (401)222-4600 Fax (401)222-6178 TTY 800-745-5555 Voice 800-745-6575

**PROTOCOL FOR GRANTING VARIANCES  
TO REGULATIONS OF THE BOARD OF REGENTS  
OR REGULATIONS OF THE COMMISSIONER**

**Definition.** A variance constitutes an alternative method of compliance with regulations rather than a relaxation of educational standards. (A variance to federal regulations cannot be considered under this protocol.) Variances may be allowed when an alternative method of compliance with the intent of the regulation assures equal educational opportunity, is consistent with best educational practices or would lead to the attainment of at least equal or better student outcomes than could occur with the literal application or enforcement of the regulations. A variance will not exceed three (3) years in duration. To extend a variance beyond the three (3) year time frame, the request must be resubmitted.

**School Committee procedure for applying for a variance.** Before beginning the variance request process, the superintendent of schools will review the variance request to determine whether the request is one which falls within the authority of the commissioner of Education to grant. School Committee Counsel may be helpful in this. (Counsel for the State Department of Education will also be available to discuss this issue.)

- (1) The superintendent shall call for a school committee meeting on the variance request. Notice of the meeting shall be published twenty (20) work days in advance of the meeting and shall include the text of the variance sought along with an explanation of the variance. Notice of the meeting shall also be given to the Commissioner of Education and to any recognized groups including parent and community groups, bargaining agents, and professional organizations whose interests would be directly affected by the granting of a variance.

- (2) The Committee's recommendation shall be forwarded to the Commissioner with a copy of the minutes of the meeting and with any written comments received concerning the proposed variance. The Commissioner, in his/her discretion, may direct the taking of further testimony.
- (3) A grant or denial of the variance by the Commissioner shall be issued accompanied by a statement of the reason for the action taken. A variance may be granted to a part or to the whole request.
- (4) A grant or denial of a variance may be appealed to the Board of Regents under the provisions of Title 16 of the laws of Rhode Island relating to Education. (16-39-1, 16-39-2)

**Authority to grant variance.** The Commissioner has authority to issue variances to regulations issued by the Board of Regents and the Commissioner. Such variances may be issued to any individual local education agency requesting it. The Commissioner may initiate an open meeting to decide whether a variance should be granted. Notice of such meeting shall be published twenty (20) work days in advance of the meeting and shall include the text of the variance sought along with an explanation of the variance. Notice of the meeting shall also be given to any recognized groups including parent and community groups, bargaining agents, and professional organizations whose interests would be directly affected by the granting of a variance.

**Effect of a variance granted by the Commissioner of Education.** The Commissioner may elect to confine any variance granted to the school district requesting it or, in the alternative, the Commissioner may give statewide effect to the variance. Before the Commissioner gives statewide effect to a variance, a public hearing at the state level shall be held following the established

procedures for proposed regulation changes and shall be submitted to the Board of Regents for approval.

**Variance for private schools.** The governing authority of a private school may be granted a variance on the same basis as such variances are granted to public schools.

**Applicability of this variance procedure.** This procedure for considering a variance will be used except when otherwise provided for by regulation or law.

**Limitations on the availability of variances.** Variances apply only to the regulations of the Board of Regents or commissioner of Education. This protocol shall not be applicable to individual variances of teacher certification requirements.

**Limitation on the length of the effect of variances.** Variances shall be reviewed by the Commissioner on an annual basis to determine whether or not continuation of a variance is appropriate.