



## Introduction

This matter concerns a request by the Tiverton School Committee that the Commissioner of Education decide a dispute regarding the amount of funds needed to operate Tiverton schools in the 1994-1995 fiscal year.<sup>1</sup>

For the reasons set forth below, we find that the Town of Tiverton must provide the School Committee with \$287,538 in additional funds for fiscal year 1995.

## Background

At the Tiverton financial town meeting of May 18, 1994, the School Committee requested \$13,328,533 in funding for the 1994-1995 fiscal year. After receiving the report of the Town of Tiverton's Budget Committee, the voters at the financial town meeting decided to appropriate \$12,383,601 to the School Committee.

On June 15, 1994 the School Committee reviewed its anticipated revenues and expenditures and adopted a revised budget of \$13,372,711 for fiscal year 1995.

Shortly thereafter, R.I.G.L. 16-7-20 was amended to include subsection (g), entitled "Poverty Weight." This statute provided \$46,080,004 in poverty weight aid to be distributed to school districts. The Tiverton school district eventually was awarded \$446,315 in poverty fund aid for the 1994-1995 school year.

Superintendent Louis Bitar testified that the appropriation voted at the financial town meeting does not permit the school dis-

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1 This request was referred to the undersigned hearing officer for hearing and decision. Hearings were conducted on October 4 and 24, November 16, and December 16, 1994. Both parties subsequently filed briefs and reply briefs.

trict to meet Basic Education Program requirements, statutory mandates, and contractual obligations for the 1994-1995 school year. Mr. Bitar stated that the School Committee's budget can be reduced by approximately \$75,000 because of tuition savings from lower than expected student enrollments in the vocational education program at Rogers High School, and that the school district's need for additional funds can further be reduced by the \$446,315 poverty fund award.

Tiverton Town Administrator Paul Northrup described the increases that have appeared in the School Committee's budget requests annually since the 1990-1991 fiscal year. Mr. Northrup also testified that he did not dispute any of Mr. Bitar's testimony regarding the various needs for increased funding requests.

Tiverton Budget Committee Chairman James Goncalo disputed the legal and practical justification for the School Committee's request for funds in excess of the appropriation voted at the town meeting. Mr. Goncalo addressed numerous items in the School Committee's budget, including the Committee's recent failure to follow its practice of exercising a contractual right to "prepay" summer salaries for teachers. This practice involved the Committee's end-of-the-fiscal-year payment of summer salaries which ordinarily were due and owing in the next fiscal year. The School Committee made a \$226,255 prepayment of fiscal year 1994 salaries in June 1993, but it did not prepay any fiscal year 1995 salaries in June 1994. A list of Mr. Goncalo's recommended budget cuts is set forth below.

#### Contentions of the Parties

In taking the position that the appropriated funds are insuffi-

cient to meet the school district's legal and contractual mandates, the School Committee asserts that the Town's fiscal year 1995 local contribution is \$147,831 less than that of fiscal year 1994. The School Committee points to Mr. Northrup's statement that he does not dispute any of Mr. Bitar's testimony and argues that the Budget Committee is attempting to substitute its discretion for that of the School Committee in setting educational policy and determining what obligations must be incurred in providing mandated services.<sup>2</sup> Deducting the approximate \$75,000 savings in vocational tuitions, the School Committee contends that it needs \$13,297,711 to meet its statutory and contractual obligations. While the poverty fund aid "may be used to offset expenses in the current 1994-1995 school department budget,"<sup>3</sup> the School Committee requests that the Town be ordered to appropriate an additional \$468,110 for fiscal year 1995.

The Town contends that the School Committee violated public policy by failing to make any effort to resolve this dispute at the local level. It further argues that the School Committee violated the following statutes: R.I.G.L. 16-2-21(2) and (3) by failing to adopt a budget in which expenses are no greater than total revenue; R.I.G.L. 16-2-9(e) by failing to provide the Town with a corrective action plan approved by the Auditor General; and R.I.G.L. 16-19-1 by spending money from a budget which is beyond its legal spending authority and by making financial commitments after the financial town meeting in excess of the amount appropriated.

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2 See Exeter-West Greenwich Regional School District v. Exeter-West Greenwich Teachers' Association et al., 489 A.2d 1010 (R.I. 1985).

3 School Committee's brief, p. 12.

As for specific items in the School Committee's budget, the Town contends that the following reductions are reasonable:

- o \$226,255 for the prepayment of summer salaries that the School Committee refused to pay out of surplus funds in June 1994
- o \$177,072 by hiring two new teachers instead of the 7.2 positions sought by the school district
- o \$3,000 by level funding the home tutoring account
- o \$43,361 by eliminating the in-house suspension position at the high school
- o \$18,855 by eliminating a new secretary/clerk
- o \$28,114 by reducing the number of part-time aides requested
- o \$5,040 by level funding the early retirement account
- o \$10,000 by not funding the early retirement incentive account
- o \$25,575 by reducing various employee benefit and tax accounts consistent with the addition of two, rather than 7.2, positions
- o \$49,591 in the health insurance account to reflect the actual, as opposed to the projected, rate increase
- o \$6,900 in the light and power account based on past payments made after, not before, the implementation of energy saving measures
- o \$17,342 in the special education transportation account based on actual expenditures in the past two years
- o \$101,679 in vocational tuitions at Rogers High School due to lower enrollments than projected
- o \$1,250 for the Project Close-Up program which has not been conducted in years
- o \$6,000 in custodial supplies which are based on a one-time expense incurred last year
- o \$7,000 in new equipment based on large expenditures in that area last year with federal census transition funds
- o \$3,310 by level funding dues and fees based on last year's expenditure

- o \$8,000 by level funding stipends based on expenditures in the past two years
- o \$12,000 in the heating account to reflect the filling of oil tanks and a gas conversion undertaken in June 1994
- o \$1,547 to reflect the lower salary paid to the assistant to the superintendent who replaced the assistant superintendent
- o \$12,000 to \$15,000 in the difference in salary between the former high school librarian and the newly-hired librarian

The Town also contends that the School Committee exacerbated its projected fiscal year 1995 deficit by making unbudgeted expenditures and spending surplus funds recklessly in June 1994.

### Discussion

Taking into account the financial town meeting's appropriation of \$12,383,601, the School Committee's request that its revised budget of \$13,297,711 be funded, and the School Committee's agreement to apply the \$446,315 in poverty aid to its funding needs,<sup>4</sup> a projected deficit of \$467,795 exists for fiscal year 1995.

The controlling legal principle in the determination of disputes between school committees and appropriating authorities concerning the required level of funding for school operations is set forth in the 1985 case of Exeter-West Greenwich Regional School District v. Exeter-West Greenwich Teachers' Association et al. In that case the Rhode Island Supreme Court stated that

a city or town is bound by and must fund the valid collective-bargaining agreements entered into by its school committee as well as other obligations incurred in the providing of services mandated by law. 489 A.2d at 1020.

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4 In light of the School Committee's willingness to apply these funds to its budgetary needs, we find it unnecessary to address the question of whether the poverty weight aid constitutes state education funds which must be used to supplement, not supplant, monies allocated by a city or town for educational purposes under R.I.G.L. 16-7-20(f).

This principle was affirmed by the Court in West Warwick School Committee et al. v. Souliere et al., 626 A.2d 1280 (1993).

R.I.G.L. 16-7-24 was amended in 1983 to authorize the Board of Regents to "adopt regulations for determining the basic education program and the maintenance of local appropriation to support the basic education program." The Basic Education Program Manual was subsequently compiled. Its purpose is

to fulfill the requirements that standards be set so that there would be a way to measure compliance with the law and, more generally, to determine whether equality of educational opportunity is being provided. [BEP Manual, p. i].

School committees are required under R.I.G.L. 16-7-23 to adopt a budget in an amount sufficient to support "the basic program and all other approved programs shared by the state." Disputes have arisen between school committees and appropriating authorities over the amount of money needed by the school committee to meet its legal obligations. If the parties are unable or unwilling to resolve the dispute, the sufficiency of the funding appropriation may be determined in this forum. While we encourage the parties to try and resolve their differences, we cannot deny that a party has the right to have the dispute decided by this office. To the extent that the School Committee has insisted on this right in the course of this dispute, it has not acted improperly.

It is true that a school committee must adopt a budget in which expenses do not exceed revenues. It is also true that a school committee with an insufficient appropriation must submit a corrective action plan to the auditor general, and it cannot incur a deficit. But a school committee retains the obligation to identify educational

needs in the community and to obtain the necessary amount of funding to meet the basic program. Educational needs may arise after the appropriating authority acts. A school committee still has the duty to respond to those needs. If in meeting these obligations a school committee finds that its appropriation is inadequate, it must inform the appropriating authority and take steps to balance its budget. Requesting the Commissioner to determine the appropriate funding level can be one of those steps. This, in essence, is what the School Committee has done in this matter and we do not find it is precluded from presenting its case in this forum.

We now turn to the budgetary items placed in dispute by the Town. With regard to the prepayment of summer teacher salaries, the Town essentially is claiming that it overfunded the School Committee's fiscal year 1994 budget by \$226,255 because the School Committee, after using \$226,255 in fiscal year 1993 funds to prepay fiscal year 1994 salaries, failed to use any fiscal year 1994 funds to prepay fiscal year 1995 salaries. Consequently, the Town seeks to rectify this overfunding by deducting \$226,255 from the salary account in the School Committee's fiscal year 1995 budget. We view the Town's claim to be based on a prior year's assumption of how the School Committee would spend appropriated funds. However, as the Rhode Island Supreme Court stated in Dawson v. Clark, "once an appropriation is made by a city council or town meeting for use of the school committee, the expenditure of those funds so appropriated is within the committee's sole and exclusive jurisdiction." The Town's assumption that the School Committee would prepay summer salaries in June 1994 therefore

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5 97 R.I. at 460 (1962).

is not legally binding on the School Committee, and it cannot justify a reduction in the salary allotment for previously-hired employees.<sup>6</sup>

The parties disagree on the number of new teaching positions needed for the 1994-1995 school year. The School Committee requested 7.2 new positions: one elementary school teacher, 3 teachers to form a new teaching team at the middle school to handle an increased number of seventh grade students, and 3.2 positions at the high school in response to increased enrollment and added demand for courses due to newly-strengthened graduation requirements. The Town contends that only two new teachers and the local funding of a Chapter One teacher are needed at the middle school. Actual enrollments in September 1994 did not warrant the hiring of an additional elementary school teacher, but increased health-related needs at the elementary school necessitated the addition of a .6 nurse-teacher position. One of the 3 seventh grade positions at the middle school was filled by a transfer.

We find that the Town must fund 5.8 of the requested 7.2 new teaching positions. We find that the record supports the 3.2 high school positions, two of the middle school positions, and the .6 nurse-teacher position. Accordingly, we shall deduct \$47,673 from the School Committee's revised requested budget.

We find that the School Committee's requested amount for home tutoring is supported by testimony in the record regarding increased needs of students with disabilities.

The high school in-house suspension position and the secretary/clerk position in the superintendent's office are required by the

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<sup>6</sup> We further find that Dawson v. Clark prohibits the Town from challenging the wisdom of the School Committee's spending in June 1994.

collective-bargaining agreements with the teachers' and clericals' unions, respectively. These contracts were being negotiated at the time of the financial town meeting. The record shows that tentative agreements existed with respect to the positions in question at the time of the meeting. We find that the Town is legally obligated to fund these contractual positions even though the agreements were not formally ratified and executed until after the financial town meeting.

A disagreement exists with respect to the number of part-time aides needed for the 1994-1995 school year. The School Committee requested funding for 23 aides, 9 more than the previous year, based on new provisions in the teachers' collective-bargaining agreement whereby the high school teachers relinquished non-instructional duties to teach enhancement courses, and the elementary teachers were given duty-free lunch periods. The Town funded 16 aides based on its understanding that the school district was no longer required to provide 4 lunch aides for the high school, and that 6 aides would be sufficient to perform the duties of the high school teachers who would be teaching enhancement courses. In the absence of any further evidence in the record regarding the elimination of the high school lunch aides and the need for aides at the elementary school, we find that the Town must fund 19 part-time aides. We therefore shall deduct \$14,280 from the School Committee's revised budget request.

We shall deduct \$15,040 from the early retirement accounts because the record fails to establish the need for these funds.

Given our reductions in the areas of new teaching positions and part-time aides, we shall make a corresponding reduction of \$5,963 in the payroll tax, retirement and related employee accounts.

The School Committee budgeted a projected 21.8% increase in its health insurance premium. The actual rate increase was 14%. Given this fact, we agree with the Town's contention that the health insurance premium may be reduced. We shall do so in the amount of \$30,922.<sup>7</sup>

We find that the amount requested by the School Committee for light and power is justified in view of Mr. Bitar's testimony that rate increases have offset some of the energy savings measures over the past two years.

We find that the amount requested by the School Committee for special education transportation is warranted based on Mr. Bitar's testimony that increased needs have arisen in this area during the school year.

As previously noted, the School Committee acknowledged that its fiscal year 1995 budget could be reduced by \$75,000 because of lower than expected student enrollments in the vocational program at Rogers High School. The record establishes that actual enrollments at Rogers resulted in a tuition cost of \$97,228. Given that the School Committee's revised budget requests \$198,000 in funding for Rogers' tuitions, we find that a total reduction of \$100,772 in this account is justified. We therefore shall reduce the School Committee's budget an additional \$25,772.

The record shows that the Project Close-Up program has not been conducted in the past few years. Given the absence of any evidence that the program is scheduled to be conducted this year, we shall

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7 This figure reflects the reduction calculated by the Town minus health insurance coverage for the 3.8 new positions which must be funded beyond the Town's inclusion of 2 new positions.

reduce the School Committee's budget by the \$1,250 requested for this program.

We find that the record supports the Town's contention that the custodial supplies account can be reduced by \$6,000 based on the inclusion in that account of a nonrecurring expense from last year.

We are unable to find sufficient detail in the record to support the School Committee's request for \$7,000 for new equipment. We find the record to be similarly lacking with regard to the School Committee's request for increased funding in the dues and fees (\$3,310) and stipends (\$8,000) accounts. We therefore shall reduce the School Committee's requested budget by \$11,310. Absent any evidence with regard to the school district's past oil-purchasing practices and the amount of savings expected to be realized by converting a heating system to gas, we cannot find that the amount appropriated to the heating account exceeds the School Committee's needs. We do agree with the Town that the \$1,547 difference in salary between the former assistant superintendent position and the new assistant to the superintendent position, and the \$13,500 difference<sup>8</sup> in salary between the former and the newly-hired high school librarian should be deducted from the School Committee's requested budget.

### Conclusion

Of the School Committee's projected deficit of \$467,795 for the 1994-1995 fiscal year, \$180,257 is not attributable to contractual obligations or the provision of mandated programs and services. The Town must therefore appropriate an additional \$287,538 to the School

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8 This figure represents the average of the \$12,000 to \$15,000 estimate given by Mr. Bitar in his testimony.

Committee for the 1995 fiscal year.<sup>9</sup>

  
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Paul E. Pontarelli  
Hearing Officer

Approved:

  
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Peter McWalters  
Commissioner of Education

Date: March 28, 1995

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9 Because we have found that the School Committee is entitled to an appropriation which includes a greater local contribution than fiscal year 1994, we find it unnecessary to address the application of R.I.G.L. 16-7-23's maintenance-of-local-effort provision to this case.