

Introduction

This matter concerns a request by the Tiverton School Committee for an interim order directing the Town of Tiverton "to honor any and all invoices of the Tiverton School Committee up to and including the additional amounts awarded by the Commissioner in his decision of March 28, 1995" during the pendency of the appeal of that decision. [Hearing Officer's Exhibit 1].¹

Background

On March 28, 1995 we issued a decision in Tiverton School Committee v. Town of Tiverton which held that the Town must appropriate an additional \$287,538 to the School Committee to operate schools in fiscal year 1995.

The Town subsequently filed a timely appeal of the decision with the Board of Regents. The appeal is currently pending before the Board.

Superintendent of Schools Louis J. Bitar testified that if the School Committee does not receive the additional \$287,538, it will not be able to meet the remaining payroll and pay invoices for fiscal year 1995. According to Mr. Bitar, if the Committee meets payroll it can complete the school year, but it will be unable to pay several large bills it will receive in June. Those bills concern vocational education tuitions, student transportation, special education services, and residential special education placements.

The School Committee also presented evidence that the Town has restricted the use of \$288,000 of otherwise surplus funds pending the

¹ This matter was assigned to the undersigned hearing officer and heard on May 8, 1995.

appeal of the March 28, 1995 decision.

Contentions of the Parties

The School Committee contends that the equities of this matter demand that the Commissioner's decision not be stayed by the Town's appeal. The Committee emphasizes its legal obligation to operate schools for at least 180 days and to maintain a balanced budget. It points to an array of adverse consequences that will result if the additional funds are not appropriated and the appeal is delayed. The Committee also notes the existence of the necessary funds in the Town's restricted account, and it argues that those funds should be used to pay necessary school expenses.

The Town contends that the Commissioner's decision is not final, and that granting the School Committee's request would in effect eliminate the Town's right to appeal. The Town also asserts that the School Committee has sufficient funds to complete the school year and thus can provide students with the education required by federal and state laws and regulations.

Discussion

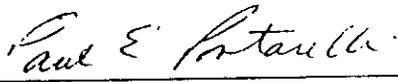
According to R.I.G.L. 16-39-3.2, the Commissioner may issue an interim order pending a hearing "as may be needed to ensure that a child receives education in accordance with applicable state and federal laws and regulations during the pendency of the matter."

While the School Committee has legitimate concerns regarding the length of the appeal process and its ability to pay several substantial bills it will receive next month, the record in this matter shows that the School Committee currently is able to provide the children of Tiverton with the education required by R.I.G.L.

16-39-3.2. On the basis of that evidence, we find that the statutory standard for interim relief has not been met. We therefore deny the School Committee's request.

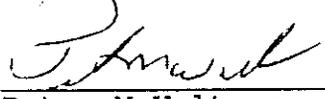
Conclusion

The School Committee's request for an interim order is denied.



Paul E. Pontarelli
Hearing Officer

Approved:



Peter McWalters
Commissioner of Education

Date: May 15, 1995