

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

NARRAGANSETT SCHOOL COMMITTEE

VS.

TOWN OF NARRAGANSETT

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DECISION

Held: School Committee has a deficit of \$18,073 for fiscal year 1994. School Committee has a projected deficit of \$343,209.50 for fiscal year 1995 which is attributable to mandated programs and services and therefore must be funded by the Town.

Introduction

This matter concerns two disputes between the Narragansett School Committee and the Town of Narragansett. The first dispute is whether the School Committee incurred a deficit for fiscal year 1994. The second dispute is whether the Town appropriated sufficient funds to¹ the School Committee to operate schools in fiscal year 1995.

For the reasons set forth below, we find that a deficit in the amount of \$18,073 exists for fiscal year 1994, and that the Town must appropriate an additional \$343,209.50 to the School Committee for fiscal year 1995.

Background

The record with regard to fiscal year 1994 includes that year's financial audit for the Narragansett school system. [School Committee Exhibit 5]. The audit report contains several financial statements for fiscal year 1994. One of these statements calculates revenues and expenditures on a "budgetary basis." [p. 4]. Another statement, entitled "Combining Statement of Revenues, Expenditures and Changes in Fund Balances," makes calculations according to "generally accepted accounting principles." [p. 12]. As noted in the report, "accounting principles applied for purposes of developing data on a budgetary basis differ significantly from those used to present financial statements in conformity with GAAP . . ." [p. 7]. The differing methods of calculation yield different expenditure totals because

¹ These matters were assigned to the undersigned hearing officer and heard on a consolidated basis. Hearings were conducted on May 31, June 2, June 7, and December 22, 1994, and January 6, January 10, January 23, February 8, February 27, February 28, March 8, and March 29, 1995.

the budgetary basis method includes "encumbrances," while the generally accepted accounting principles does not. As stated in the audit report,

Encumbrance accounting, under which purchase orders, contracts, and other commitments for the expenditure of funds are recorded in order to reserve that portion of the applicable appropriation, is employed in the governmental funds. Open encumbrances are reported as reservations of fund balances since the commitments will be honored through subsequent years' expenditures. Encumbrances do not constitute expenditures of liabilities under generally accepted accounting principles. [p. 6].

The parties agree that under the budgetary basis, total School Committee revenues exceed total expenditures, but that according to the financial statement based on the generally accepted accounting principles method, a deficit of \$18,073 exists for fiscal year 1994.

The record with regard to fiscal year 1995 shows that on February 28, 1994 the School Committee submitted a budget request of \$15,602,561 to the Town Council. The Town Council subsequently approved an appropriation of \$15,020,000. The School Committee later adopted a revised budget of \$15,186,466.

The School Committee presented testimony in this matter that it subsequently realized savings on its health insurance premiums which brought anticipated expenditures in line with the Town's appropriation. This situation was shortlived, however, as the School Committee incurred unanticipated expenditures totaling \$308,482 in several areas of the budget, most notably special education costs and vocational education tuitions. In response to this projected deficit, the School Committee froze specific line items in the budget totaling \$166,000, prohibited spending from non-personnel budget lines except in emergency situations, and submitted the dispute to this forum.

As discussed in detail below, the School Committee took the position in the course of this proceeding that it needs additional funding beyond its unanticipated expenses in order to comply with various sections of the Basic Education Program (BEP) and to pay for attorney's fees and hearing expenses in this matter. All told, the School Committee is requesting additional funds in the amount of \$1,465,753.50 for fiscal year 1995.

Contentions of the Parties

The School Committee contends that no deficit exists for fiscal year 1994 because revenues exceed expenditures under the budgetary system, and this is the method that has been used by the school system in the past. The School Committee also notes that the reason for the deficit under the generally accepted accounting principles method is a \$54,676 adjustment to prior years which resulted from the application of a new accounting standard regarding the reporting of employees' earned vacation and sick leave.

As for fiscal year 1995, the School Committee asserts that because expenditures did not exceed revenues after the health insurance savings were realized, this proceeding should focus solely on the deficit which later developed. The Committee argues that the \$308,482 in unanticipated overages is attributable to legal and contractual obligations, and therefore must be funded. In addition, the School Committee requests the following:

(1) \$322,000 to meet Basic Education Program shortfalls. Specifically, the School Committee seeks funding for .2 teaching positions in Physics II (\$6,000) and Textiles I (\$6,000), and a 1.0 teach-

ing position in Business (\$30,000) at the high school. Additional requests for the high school consist of \$24,000 for textbooks, \$21,000 for instructional supplies, \$58,500 for capital classroom equipment, \$4,500 for capital general equipment, \$10,000 for audiovisual instructional supplies, \$17,000 for audiovisual equipment, and \$14,000 for athletic supplies. The School Committee also asks for \$21,000 for curriculum and research development at the superintendent's level, and \$110,000 for textbooks at the Pier School.

(2) \$824,200 for "long-range capital improvements."

These items consist of \$20,000 for a vehicle radio system, \$100,000 for roadway and sidewalk improvements, \$300,000 for a vehicle maintenance and bus parking facility, \$5,000 for a new lawn mower, \$6,000 for a generator at the elementary school, \$22,700 for a generator at the high school, \$100,000 for parking lot repairs, \$17,500 for a service truck, \$100,000 to resurface the high school roadway, \$20,000 to replace a hot water tank, \$6,500 for a wheelchair lift at the elementary school, \$43,500 to remove and replace a 10,000 gallon fuel tank, \$39,000 to remove and replace a 5,000 gallon fuel tank, and \$44,000 to replace lockers at the high school.

(3) \$10,871.50 in attorney's fees for this matter, and

(4) \$200 for the auditor's time in testifying at the hearing.

The School Committee asserts that the school system is in a state of decline because of budget limitations and reductions in the past few years. The effects of this decline can be seen in the decreasing number of programs, out-of-date textbooks, inadequate equipment and

² This position would teach courses in shorthand, stenography, data processing, and office procedures/office machines.

supplies, and deteriorating physical plant. The Committee contends that 84% of its budget is personnel-related, and that school programs cannot be eliminated without either violating BEP directives that there be a continuum of coursework for students of all needs and abilities or denying students the elective courses needed to meet graduation requirements.

The Town contends that the school system audit must follow generally accepted accounting principles, pursuant to which there is a deficit for fiscal year 1994.

The Town also argues that its fiscal year 1995 appropriation provides the School Committee with sufficient funds to meet its legal and contractual obligations. The Town asserts that the School Committee's entire budget, not just the deficit, is subject to scrutiny in this matter. While the Town concedes that all but \$12,348 of the \$308,482 in unanticipated expenses are legally or contractually required, it contends that the School Committee should not be permitted to seek funding for items which were not contained in its adopted budget. The Town further disputes the necessity of the additional funds sought by the School Committee. According to the Town, any BEP-required coursework that is lacking could be incorporated into existing courses, and the School Committee has sufficient funds to complete the school year in compliance with BEP requirements for books, supplies, equipment and capital items.

The Town also contends that \$571,844 of the previously-appropriated budget is not attributable to mandated programs and services or contractual obligations. The Town claims that \$245,000 could be cut from the budget by (1) eliminating numerous high school

courses not required by the BEP,³ (2) reducing the budget for high school athletics and clubs and teams by 50%,⁴ and (3) eliminating one section of 4 courses at the high school.⁵ The Town maintains that \$140,000 could be cut by using state Poverty Fund monies to fund BEP-required programs instead of the non-required programs chosen by the School Committee.⁶ The Town also argues that \$172,962 in miscellaneous cuts could be made⁷ and that it should receive a credit of \$13,882 for unanticipated rental and other revenues realized by the School Committee in fiscal year 1995.

Discussion

In determining whether a deficit exists for fiscal year 1994, we take official notice of the Codification of Governmental Accounting and Financial Reporting Standards published by the Governmental

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- 3 Spanish IV (\$6,000), French IV (\$6,000), Italian I through IV (\$24,000), Youth and Law (\$6,000), Technology II (\$6,000), Structural Design and Construction (\$6,000), Mass Media/Journalism (\$6,000), College Skills (\$6,000), Psychology (\$12,000), High School Skills or Contemporary Novels and Films (\$6,000), Informal Geometry (\$6,000), Horticulture I and II and Greenhouse (\$30,000), and Video and Radio Production (\$6,000)
 - 4 Reductions of \$80,000 and \$15,000, respectively.
 - 5 Introduction to Computers (\$6,000), World History [College Level] (\$6,000), U.S. History (\$6,000), and Geometry [College Level] (\$6,000).
 - 6 Pier School guidance (\$15,000), Pier School Remedial Math (\$18,000), Pier School Remedial Reading (\$22,000), Junior High School Reading (\$60,000), and kindergarten aides (\$25,000).
 - 7 One second grade teacher in excess of the contractual class size limit (\$30,000), salary increases granted to central office staff (\$3,962), School Committee meeting expenses (\$2,000), a .9 nurse-teacher position (\$27,000), the pre-one program (\$30,000), and approximately half of the frozen budget line items (\$80,000).

Accounting Standards Board. The Codification "is an integration of currently effective accounting and reporting standards for state and local governments." [p. vii]. The Codification defines "generally accepted accounting principles" (GAAP) as "uniform minimum standards of and guidelines to financial accounting and reporting." [Section 1200.101]. According to the Codification, "Adherence to GAAP is essential to assuring a reasonable degree of comparability among the financial reports of state, provincial, and local governmental units." [Section 1200.102]. The Codification further states that "The basic financial statements of governmental units should be in conformity with GAAP." [Section 1200.112].

Section 2400.104 of the Codification states that

if the legally prescribed budgetary basis differs materially from GAAP, budgetary data should not be compared with GAAP-based operating data because these comparisons would not be meaningful. Rather, the Combined Statement of Revenues, Expenditures, and Changes in Fund Balances -- Budget and Actual -- General and Special Revenue Fund Types should present comparisons of the legally adopted budget with actual data on the budgetary basis (which may include encumbrances) for the primary government (including its blended component units). In such cases, this "actual" data would be different from the GAAP presentations in the Combined Statement of Revenues, Expenditures, and Changes in Fund Balances -- All Governmental Fund Types. The difference between the budgetary basis and GAAP (as well as other differences) should be explained in the notes to the financial statements . . . (emphasis in original).

We find the audit report for fiscal year 1994 to be consistent with the above-cited sections of the Codification. Applying those sections, we find that the "Combining Statement" calculated with GAAP-based operating data is determinative of the issue herein. Thus,

8 As of June 30, 1994.

while it appears that but for the financial adjustment for employees' sick and vacation leave for prior years' expenditures would not exceed revenues, we hold in accordance with the "Combining Statement" that a deficit of \$18,073 exists for fiscal year 1994.

Turning to the fiscal year 1995 dispute, it is our view that the entire School Committee budget is subject to scrutiny in this proceeding. While the scope of our inquiry is broad, we hasten to add that we do not have the authority to reduce the School Committee's budget below the amount of the Town's appropriation.⁹ The Town is entitled to present evidence that its appropriation was sufficient to fund mandated programs and services and contractual obligations. If it is shown that the School Committee used appropriated funds for discretionary items, the Town has no legal obligation to provide a similar amount of funds to erase the School Committee's deficit.

The controlling legal principle in the determination of disputes between school committees and appropriating authorities regarding the required amount 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.

⁹ See Dawson v. Clark, in which the Rhode Island Supreme Court stated that "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." [citations omitted]. 93 R.I. at 460 (1962).

The Supreme Court specifically affirmed this principle 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].

In addition, 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."

With regard to the School Committee's original contention in this matter that it has a fiscal year 1995 projected deficit of \$308,482 due to unanticipated expenses, the Town disputes only \$12,348 of this amount which was spent to restore a .5 school nurse-teacher position that had been cut from the budget.

The record shows that the school department devised a plan for nursing coverage which enabled the School Committee to eliminate a .5 school nurse-teacher position from the budget. The record further shows that, because of difficulties in meeting student medication schedules and providing adequate nursing coverage in case of emergencies, the School Committee voted on October 5, 1994 to restore nursing coverage in school buildings to its previous

level. In view of the School Committee's responsibility under R.I.G.L. 16-21-7 and 16-21-8 and the Rules and Regulations for School Health Programs to employ certified nurse-teacher personnel to provide school health services to children, we find that the circumstances surrounding the additional nurse-teacher expense establish the School Committee's legal entitlement to these funds.

During this proceeding, the School Committee substantially expanded its request for funds. According to the School Committee, it is seeking these additional funds to remedy what it describes as BEP shortfalls in the school system. Those alleged shortfalls have been previously listed.

Given the fact that these alleged BEP shortfalls were not among the expenditures which originally put the School Committee in a deficit situation, we find that the School Committee is precluded from requesting funds for these items at this time unless the item represents an additional unanticipated expense. In so finding, we note that the BEP shortfalls were not in the School Committee budget when it was brought into balance following the health insurance savings. Thus, we are unable to truly say that the Town's refusal to fund these items has resulted in a deficit for the School Committee.

Of the items listed by the School Committee as BEP shortfalls, we find that the School Committee is entitled to the funds needed to

10 The record includes a September 28, 1994 letter from the school physician which "strongly recommends" an increase in nursing coverage in light of "unforeseen emergencies, distribution and timing of necessary medications along with various screening procedures as well as usual routine care . . ." [School Committee Exhibit 5].

cover the legal and witness fees in this proceeding (\$10,871.50 and \$200, respectively), and to remove and replace the 10,000-gallon fuel tank (\$43,500). Because the School Committee is the entity entrusted with the entire care, control and management of the town's public school interests under R.I.G.L. 16-2-9, the Town must appropriate the legal and witness fees incurred by the Committee in its effort to secure the funds necessary to operate the public schools. We further find that the School Committee must remove and replace the fuel tank, which is 35 years old and presently leaking, in order to fulfill its obligation under the BEP and state and federal laws to maintain its buildings and facilities in a safe and properly-functioning condition.

As previously noted, the Town contends that \$245,000 of the School Committee's budget is devoted to courses and programs at the high school which are not mandated by the BEP or the teachers' collective-bargaining agreement. The Town urges that these funds be applied to the Committee's unanticipated expenses.

The Town initially contends that the high school's courses in Spanish IV, French IV, and Italian I through IV exceed the requirements of the BEP. The BEP supports this contention in that it requires school districts to "guarantee three years of instruction in at least two foreign languages" at the secondary level. [Standard 10f]. However, a school committee cannot make a reduction in teaching personnel under R.I.G.L. 16-13-2 and 16-13-3 without giving the affected teacher a notice of nonrenewal or dismissal on or before March 1st of the preceding school year. If the school committee fails to give a timely termination notice, the nontenured teacher's contract

is renewed for the following year and the tenured teacher remains in continuous service. In other words, in the absence of an appropriate notice by March 1st of the preceding school year, a school committee is legally obligated to keep the teacher in employment, and the appropriating authority is required to fund that employment under the Exeter-West Greenwich case.

It appears from the record that one foreign language teacher received a termination notice on or before March 1, 1994. [School Committee Exhibit 3]. That individual, who is teaching two sections of Spanish I, two sections of Italian I, and one section of Italian III in the 1994-1995 school year, was recalled to employment in the summer of 1994. We need not question the School Committee's recall of this individual because 45 students are enrolled in the Spanish I classes, 41 students in the Italian I classes, and 23 in the Italian III class. [School Committee Exhibit 9]. R.I.G.L. 16-22-8 requires school committees to provide courses in Italian, Portuguese, or Spanish whenever 20 high school students apply for such courses.¹³ As for the School Committee's failure to give another foreign language teacher a termination notice and eliminate those classes for the 1994-1995 school year, we find that the School Committee did not have any reason before March 1, 1994 to believe that such action was necessary. In so finding, we note that the Town has historically funded the School Committee's foreign language offerings,¹⁴ and the fact that the

13 The high school class size limit in the teachers' contract ranges from 25 to 28. [School Committee Exhibit 12].

14 We take official notice of the November 1987 report of the BEP visiting team which contains the finding that the foreign language program at Narragansett High School includes four levels of Spanish, Italian, and French. [p. 63b].

School Committee did not present its budget to the Town Council until February 28, 1994. In the absence of other evidence showing that the School Committee had reasonable cause to believe on or before March 1, 1994 that its appropriation for the 1994-1995 school year was insufficient, we cannot deduct the personnel costs for these language courses from the School Committee's request for additional funds.

We find that the Youth and Law course is required by the BEP. The BEP requires a social studies program which, among other things, develops citizenship and value skills and includes coursework in citizenship/law-related education. [Standards 20a, c, and d]. Mr. Wedlock testified that Youth and Law meets those requirements with respect to career-bound students.

We find that the Technology II and Structural Design and Construction courses are required by the BEP. The BEP requires an industrial arts/technology education program at the secondary level. The program must include coursework and experience-centered activities in communications technology, energy and transportation, and industry and production technology. [Standards 13b and c]. Mr. Wedlock testified that Technology II and Structural Design and Construction meet those requirements and provide career-bound students with electives they can take to accumulate credits needed to graduate.

We find that the Mass Media/Journalism course is required by the BEP. The BEP requires a language arts/English program which must provide coursework in writing skills, include instruction in the use of various modes of writing, and include secondary level coursework in journalism. [Standards 14a, e and f]. Mr. Wedlock and Mr. Andrews both testified that there are no other courses at the high school

which offer instruction in journalism-related concepts.

Mr. Wedlock testified that the College Skills course is the only source of coursework for the developmental reading and study skills that are required by the BEP [Standard 14f]. Mr. Andrews, on the other hand, testified that developmental reading is handled within each curriculum area at the high school. In light of the conflicting testimony on this issue, we cannot find that College Skills is required by the BEP. However, in the absence of any evidence that the School Committee had reasonable grounds to believe that it needed to eliminate this course and thus issue a teacher termination notice on or before March 1, 1994, we must find that the Town is legally obligated to fund the employment of the College Skills instructor.

We agree with the Town's contention that the Psychology course is not required by the BEP. While the BEP mentions numerous social sciences as components of the social studies program, it does not mention psychology. However, we find that the Town must fund this position for the same reason as the College Skills instructor.

We find that the courses High School Skills and Contemporary Novels and Films are required by the BEP. According to Mr. Andrews, the former is a remedial reading course while the latter focuses on developing analytical skills for at-risk students. The language arts/English program must include secondary level coursework in both remedial reading and writing and analysis [BEP Standard 14f].

We find that the course Informal Geometry is required by the BEP. The BEP requires a mathematics program with coursework in geometry. [Standard 16a]. It also requires that the mathematics curriculum "be designed to meet the varying needs of all children."

[Standard 16C]. According to Mr. Andrews, the high school offers Informal Geometry to meet the needs of school-to-work students and students who have had difficulty in mathematics but still need a geometry credit to meet college admission criteria.

We find that the Horticulture I and II and Greenhouse/Landscape Maintenance courses are required by the BEP. The science program required by the BEP must offer coursework in the natural and physical sciences. [Standard 19a]. The BEP further requires that the science program provide students with the "opportunity to apply concepts and skills through practical investigations and hands-on science activities," [Standard 19d], that it provide for "continuous, sequential progress (where appropriate) for each student," [Standard 19C], and that it "be designed to meet the varying needs of all children." [Standard 19C]. Mr. Andrews testified that the Horticulture courses provide a programming track whereby those students who would not be successful at college-level biology or chemistry can earn science credits. Science credits are needed to meet graduation requirements and to meet college admission criteria. Mr. Andrews further testified that the greenhouse is part of the horticulture program. It is our view that the Greenhouse/Landscape Maintenance course meets the requirements of Standards 19d and C for career-bound students.

We find the Video and Radio Production course to be required by the BEP. The language arts/English program required by the BEP must provide coursework addressing speaking skills, public speaking, and journalism. [Standards 14a and f]. According to Mr. Andrews, Video and Radio Production is a communications class in which students read announcements, create school, yearbook, and local cable television

videos, and produce skits. We therefore find that this class consists of BEP-required coursework.

The Town contends that the School Committee's budget for high school athletics and clubs and teams can be reduced by 50% while remaining in compliance with the BEP. The BEP requires

a student activities program which is integrated with or supplementary to the school program and which shall meet a broad range of student needs not customarily met by the school program. [Standard 29a].

The BEP includes "athletics" and "clubs" in the listing of activities which may satisfy this requirement. [Standard 29b].

Mr. Wedlock testified that following the BEP visitation team's finding that the school district was in compliance with Standard 29, student enrollment has increased and reductions in the athletic program and clubs and teams have been made. Mr. Wedlock further testified that the varsity sports offered at the high school occur throughout the school year so as to provide students with the type of activity required by the BEP. Based on Mr. Wedlock's testimony, we reject the Town's argument that the budget for the high school athletic program and clubs and teams can be reduced by 50%.

Turning to the teachers' collective-bargaining agreement, the Town seeks to reduce the School Committee's funding request by the amount of the personnel cost for 4 sections of courses it contends could have been absorbed into other sections without violating the contractual class size limit. Mr. Andrews testified in detail about the class scheduling problems that arise in attempting to ensure that all students in a small yet comprehensive high school have sufficient opportunity to select the courses they need to meet BEP requirements.

To quote part of Mr. Andrews' testimony:

administratively, my goal for the community is to run the most efficient building possible, not to overexpend, and not to run tons of sections to keep people employed. So what you see here is a best effort under most difficult situations due to having limited numbers of students and a comprehensive high school in terms of making sure that students get what they want and I keep class sizes high. [2/8/95 transcript, p. 68].

Given Mr. Andrews' testimony, we find that the scheduling of the 4 sections in question was necessary in order to adequately deliver BEP-required programs and services to students.

The Town contends that the School Committee chose to spend state Poverty Fund monies on programs and services not required by the BEP instead of on required high school programs which qualified for the state funds. The Town argues that the Committee's action resulted in the unnecessary expenditure of \$140,000 in local funds.

An article in the fiscal year 1995 state budget authorizes an education aid program entitled the "Poverty Fund." Aid from this fund is to be used for programs and services which assist economically disadvantaged at-risk students. The Narragansett School District submitted a plan describing the proposed use of its Poverty Fund allocation. The plan, which was approved by the Department of Education, provides for counseling services, a reading program, and remedial reading and mathematics services aimed almost exclusively at students in grades kindergarten through 8. Mr. Wedlock testified that it was his understanding, based on communications with the Department of Education, that the Poverty Fund was designed to assist children "who were not only academically at risk but mostly at risk due to social/emotional problems." [3/8/95 transcript, p. 197]. Thus, while

Mr. Wedlock acknowledged the testimony of Mr. Andrews regarding the need to have particular courses at the high school to meet the needs of lower-achieving or "at-risk" students, he testified that in allocating the Poverty Fund monies he used the "concept of an at-risk kid [as] a kid who is at risk socially, emotionally, then as a result of that, perhaps academically." [Ibid., p. 197-198].

The record in this matter does not support the proposition that the high school students discussed by Mr. Andrews are interchangeable with the students identified by Mr. Wedlock as being most in need of programs and services under the Poverty Fund. Furthermore, the record shows that Mr. Wedlock exercised due diligence in attempting to understand and apply the requirements and policies of the Poverty Fund. Given Mr. Wedlock's testimony about how the Poverty Fund monies came to be used in the school district, we do not find merit in the Town's claim with regard to the use of these funds.

We now turn to the miscellaneous School Committee expenditures which the Town contends are not required by the BEP or contract.

The Town points out that the School Committee employed 7 second grade teachers at the elementary school for the 1994-1995 school year despite the fact that student enrollment figures show that 6 second grade teachers could have been employed pursuant to the class size limits in the teachers' contract. The Town therefore seeks a corresponding reduction in the School Committee's funding request.

Mr. David Hayes, principal of the Narragansett Elementary School for 24 years, testified that he developed the school's fiscal year 1995 personnel request in October or November of 1993. The October 1993 enrollment figures for grade one showed 144 students. The class

size limit in the teachers' contract provides for a maximum of 148 students for 6 teachers. Mr. Hayes testified that, drawing on his experience in this area, he estimated an enrollment of around 150 students in the second grade for September 1994. Mr. Hayes' estimate was based in part on the substantial amount of rental property in Narragansett that becomes available every September. He also considered the fact that the school district would have to pay a terminated teacher unemployment compensation during the summer even if student enrollments necessitated the recall of that teacher in September. In addition, Mr. Hayes explained the benefits of assigning students to teachers in the spring of the preceding school year, and the disruptive experience that occurred about 5 years ago when the school district terminated a second grade teacher and student enrollments subsequently increased.

As it turned out, 143 students were enrolled in the second grade as of September 1994. Enrollments never reached 148.

As we noted before, a school district is obligated under the teacher tenure law to continue the employment of a teacher unless that teacher is given a termination notice on or before March 1st of the preceding school year. No termination notice was given at that time to reduce the second grade teaching complement from 7 to 6. Mr. Hayes explained why he did not recommend a reduction in the number of second grade teachers. In light of that testimony, and the fact that the record does not show that the School Committee had reasonable cause to view this situation from a budgetary perspective any differently on or before March 1st, we cannot agree with the Town's budget-reduction request to reduce the School Committee's funding.

The Town challenges the salary increases given by the School Committee to central office staff for fiscal year 1995. The record shows that the School Committee eliminated 1.2 central office clerk positions at the end of fiscal year 1994, and in January or February of 1995 it granted the remaining 5 clerks a salary increase retroactive to July 1, 1994. The record further shows that the School Committee saved \$19,151.60 in fiscal year 1995 by eliminating the 1.2 positions, while it spent \$3,962 on the raises to the remaining clerks. The clerks are not represented by a collective-bargaining organization nor do they have contracts calling for a salary increase in fiscal year 1995.

The School Committee defends its action by arguing that it now has fewer clerks performing the same amount of work at a lower overall cost. The Town responds that not only did the School Committee lack any legal requirement to grant these salary increases, but that to award raises during the pendency of this proceeding is totally inappropriate.

We find that these salary increases are not required by the BEP or any contract. We therefore shall reduce the School Committee's funding request by \$3,962.

The Town contends that the \$2,000 budgeted by the School Committee for meeting expenses is not required by law or contract. Although a school district is required by the BEP to provide "specific opportunities for open communication among staff and between staff and community," [Standard 34g], and to "employ a formal system of public relations using a variety of media in its attempt to work with the community," [Standard 34h], the record does not establish that the

meeting expenses account is used for such. As a result, we shall reduce the School Committee's funding request by \$2,000.

The Town requests that \$80,000, or roughly half of the amount of the budget line items frozen by the School Committee during the school year, be deducted from the Committee's funding request. The Town argues that it is entitled to receive some of the benefit that resulted from the Committee's spending freeze. It was Mr. Wedlock's opinion that the entire operating budget "is related to contractual requirements and to the provision of educational programs and services mandated by law," [1/6/94 transcript, p. 95]. The record also contains additional testimony by the School Committee regarding the need to spend the frozen budget amounts on mandated programs and services. In light of this testimony, we deny the Town's request.

The Town claims that the School Committee budget includes a .9 school nurse-teacher position which is not needed. Part of this position was addressed in our discussion of the School Committee's unanticipated expenses. [see page 9]. We find, for the reasons expressed in that discussion, that the school district's entire nurse-teacher staff is legally required. We therefore reject the Town's claim.

The Town contends that the amount of funds needed by the School Committee can be reduced by the elimination of the pre-one program which is not required by the BEP. According to Mr. Wedlock, students who have completed kindergarten but are found not to be developmentally ready to enter the 1st grade are assigned to this program. This assignment is designed to avoid an inappropriate placement to the first grade and the resulting need for costly special education

services in later years.

We agree with the Town that the pre-one program is not required by the BEP. The Town's request does involve a reduction in personnel, however, and for the reasons previously discussed in this context, the School Committee's funding request cannot be reduced.

The final items raised in this matter concern the rental and miscellaneous income received by the School Committee during fiscal year 1995. The record shows that, in each of these accounts, the income raised by the Committee exceeds the amount estimated in its budget. Specifically, there is a surplus of \$6,198 in the rental account, and \$7,684 in the miscellaneous income account. The record further shows that these additional monies may be used by the School Committee for fiscal year 1995 operations if so authorized by the Town. The Town requests that these additional revenues be applied to the School Committee's unanticipated expenses. Assuming that the Town's request implicitly authorizes the School Committee to spend these additional revenues, we grant that request and deduct \$13,882 from the amount of funds sought by the School Committee in this matter.

Conclusion

The School Committee has a deficit of \$18,073 for fiscal year 1994. The School Committee must take immediate action to address this deficit.

At this time, the School Committee has a projected deficit of \$343,209.50 for fiscal year 1995. The deficit is attributable to mandated programs and services and contractual obligations. The Town therefore must appropriate an additional \$343,209.50 to the School

Committee for fiscal year 1995.

Paul E. Pontarelli

Paul E. Pontarelli
Hearing Officer

Approved:

Peter McWalters

Peter McWalters
Commissioner of Education

June 5, 1995