



Working Together For The School Community

Towns and boards of education must cooperate during good and bad times

By THOMAS B. MOONEY

Entrenched financial stresses on our federal, state and local governments have made everyone cranky. Our locally-elected officials have a terribly difficult job to do, with shrinking resources and an anxious public.

Even in good times, the different responsibilities of towns and boards of education have caused second-guessing and mutual distrust, given that half to two-thirds or more of local expenditures go to fund education. In these tough times, tensions have boiled over in some towns, with public confrontations, power grabs and even litigation.

Such actions undermine public confidence in our local government and can even divert scarce resources to fund intra-governmental conflict. Cooperation between these two bodies is in the public interest, and a review of the respective rights and responsibilities of towns and boards of education may foster better understanding and a more peaceful coexistence.

We start with a basic premise: education in Connecticut is a state responsibility. Article Eighth, Section 1 of the Connecticut Constitution provides simply: "There shall always be free public elementary and secondary schools in the state. The general assembly shall implement this principle by appropriate legislation."

This constitutional right to education has been the subject of litigation for almost forty years, starting with the filing of *Horton v. Meskill* in 1974 and ongoing with *Sheff v.*

O'Neill (filed in 1989, initially decided by the Connecticut Supreme Court in 1996, and still in litigation today). In March of last year, a fractured Connecticut Supreme Court, in a plurality opinion by

Justice Fleming Norcott Jr., decided that the 23 words in Article Eighth, Section 1 establish a substantive standard for education. Significantly, however, a court majority was unable to agree on what that standard should be. *Connecticut Coalition for Justice in Educational Funding Inc. v. Rell* (2010).

Though the ongoing constitutional challenges and related reform efforts are daunting, they reflect the fact that school boards have a special status in municipal government. School board members do act as agents of the town in which they serve, but they also serve as agents of the state, responsible for implementing the educational interests of the state that are created in the Constitution. The General Assembly has delegated its educational responsibility by statute to local and regional boards of education, but the overarching state responsibility for education continues. Each year, the General As-



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sembly imposes a host of new obligations on local and regional boards of education, and it can and does exercise more direct control in specific situations.

The Windham Board of Education is currently under special supervision by the state Board of Education, the Bridgeport Board of Education is being reconstituted, and the Hartford Board of Education was replaced for some five years in the 1990s by the State Board of Trustees for the Hartford Public Schools.

Source of Confusion

The dual status of boards of education has been a source of confusion for decades. Municipal leaders (mayors, town councils, boards of selectmen) have significant responsibilities, and it is understandable that they wish to exercise control over educational expenditures, a significant portion of municipal budgets.

However, given the dual status of boards of education, that control is subject to a delicate balance described over 70 years ago by the Connecticut Supreme Court in *Board of Education of the Town of Stamford v. Stamford Board of Finance*, 127 Conn. 245 (1940): "A town board of education is an agency of the state in charge of education in the town; to that end it is granted broad powers by the legislature; and it is beyond control by the town or any of its officers in the exercise of those powers or in the incurring of expense, to be paid by the town, necessitated thereby, except as limitations are found in statutory provisions."

Connecticut General Statutes, Section 10-222, is the "statutory provision" that sets forth that balance. Each spring, the board of education must submit to the municipality its itemized estimate of the cost of operating the

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schools for the coming year. Subject to some statutory limitations (now the “minimum budget requirement”), the appropriating authority must consider that estimate and then appropriate the funds it deems to be reasonable and necessary to operate the schools.

At that point, the board of education can operate with some autonomy. Section 10-222 expressly provides that the appropriation made by the town “shall be expended by and in the discretion of the board of education,” and it further provides that boards of education may transfer funds within the appropriation from one line item to another. Therefore, once the town has appropriated funds to the board of education, it should leave the operation of the schools to the board of education.

That said, good communication and mutual respect is essential under the statutory scheme. Estimating expenditures for the year is an imperfect process, and educational expenses can be volatile. Energy or insurance costs can escalate dramatically, and a single new special education student can increase school district costs by \$100,000 or more. Conversely, expenses may be lower than anticipated, and school boards may therefore have “extra” money in a given year that they can transfer to other purposes.

In either event, the two bodies must work together for the school community. Unlike the federal government, school boards cannot borrow their way out of trouble. Section 10-222 provides that boards of education may request additional funds when they anticipate a

deficit. However, there is no ready process to force a municipality to appropriate additional funds for education, and the statute goes on to admonish that “no additional funds shall be expended unless such supplemental appropriation shall be granted.”

Therefore, towns and boards of education must cooperate in good times and in bad. Neither side benefits the community by acting unilaterally. Respectful dialog is essential. Towns cannot dictate how school boards expend funds, but school boards are well-advised to consider the legitimate town concerns over its own fiscal pressures. By returning surpluses when possible, boards of education can promote the trust and goodwill that will result in town support when additional funds are needed. ■