



Edward J. King, Governor
Byron J. Matthews, Secretary

Commonwealth of Massachusetts

**Executive Office of
Communities and Development**

Division of Community Services

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M E M O R A N D U M

TO: City Councillors attending the workshop at Brandeis on April 17th.

FROM: Richard M. Kobayashi, Deputy Administrator, EOCD

DATE: May 21, 1982

SUBJECT: School Finance Matters

As you may recall, John Curley, City Solicitor of Leominster, made a presentation at the conference about The Role of City Councils and Mayors in the School Budget Process.

At the time of his presentation, "The Leominster Case", which sought to defend the right of mayors to cut the school budget, was pending before the Supreme Judicial Court.

On May 4, 1982, the SJC handed down a decision which upheld the mayor's powers to cut the school budget prior to submitting it to the City Council.

The final paragraph in the decision reads as follows:

"We affirm the judge's declaration that the mayor is not required to include in the annual city budget a recommendation for the support of the public schools in the amount requested by the school committee. The mayor has the authority to reduce the budget submitted to him by the school committee before submitting the annual total city budget (including the proposed appropriation for school purposes) to the city council."

I thought you would be interested in this development.

During the question and answer period, a number of questions were raised relating to the city council's obligation to vote an appropriation for the funding of collective bargaining contracts approved by the school committee.

In a recent decision the SJC held in a case involving Boston that "a clause that provides for salary increases in the second or third years of the agreement is valid and enforceable. It is the collective bargaining agreement that mandates the appropriations ... and the city council retains its power in the first year of the agreement to reject the collective bargaining agreement and refuse to make the appropriations."

The decision states that the Boston City Council appropriated funds to implement the first year of the contract, it presumably knew that there were incremental cost items in the second and third year of the agreement, and that when the city council approved the contract it agreed to fund those incremental cost items.

It seems that this case has relevance for all city councils and may have relevance for a broad range of multi-year contracts.

Your city solicitor should be prepared to offer advice on the impact of this case on any matters before your council.

For your information, a Summary of the Case from the Massachusetts Lawyer's Weekly is attached.

RMK/kaw

Attachment

CC: Mayors, City Council presiding officers

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Schools and School Committees - Collective Bargaining - Job Security - Raises

Where a three year collective bargaining agreement provides for annual salary increases and job security for tenured teachers, we hold that the salary increase was impliedly authorized and is enforceable, but the job security clause is unenforceable because it improperly restricts the management prerogatives of the school committee.

Salary Increase

"We conclude that a clause in a collective bargaining agreement that provides for salary increases in the second or third years of the agreement is valid and enforceable . . . In other areas the Legislature has authorized various municipal contracts for terms of between three and thirty years. G.L. c. 40, § 4. It would be absurd to say that those contracts are unenforceable unless an appropriation has been made for the entire obligation. (citations) Likewise, when the legislature has authorized collective bargaining contracts for terms not to exceed three years, it would be anomalous to say that clauses relating to wage levels and increases are enforceable for one year only.

"The city urges that if the salary increases are held enforceable, the school committee should be required to pay the increases out of the funds that it may appropriate pursuant to St. 1936, c. 224, and that the city should not be compelled to appropriate any funds in excess of that amount. It is argued that to require the city council to appropriate these funds would contradict the legislatively established balance between the responsibilities of the school committee and the city council for financing the Boston public schools. (citations) We disagree.

"The city council approved the entire collective bargaining agreement when it appropriated the necessary funds on October 1, 1980. Presumably the city council knew that there were incremental cost items that would require funding in the second and third years of the agreement. We think that when the city council approved the contract, it in essence agreed to fund those incremental cost items.

"It is the collective bargaining agreement that mandates the appropriation, not the school committee, and the city council re-

tains its power, in the first year of the agreement, to reject the collective bargaining agreement and refuse to make the appropriations."

Job Security

We are of the opinion that a provision in a collective bargaining agreement that attempts to restrict the ability of a school committee to determine on an annual basis the size of its teaching staff intrudes into an area of exclusive managerial prerogative.

"General Laws c. 71, § 37, provides that the school committee shall have general charge of all the public schools . . . Essential to the management of the public schools is the ability to determine the appropriate size of the teaching staff in light of available funds. We do not believe that the Legislature, in G.L. c. 150E, meant to permit school committees to bargain away their managerial powers in this area.

[W]e must harmonize our interpretation of c. 150E with Boston's unique system of financing its public schools. . . . As noted earlier, St. 1936, c. 224, empowers the Boston school committee to maintain the same level of funding as in the preceding year. We think that this has the effect of placing the financial burden of maintaining job security in the Boston school system primarily on the school committee.

"Thus only the incremental costs of collective bargaining agreements, i.e., salary increases, which are not included in the formula in St. 1936, c. 224, should be appropriated by the city council. We conclude, therefore, that the Boston school committee may not compel an appropriation by the city council for the purpose of enforcing a job security clause in a collective bargaining agreement.

Judgments remanded for proceedings consistent with this opinion.

Boston Teachers Union, Local 66 v. School Committee of Boston (Lawyers Weekly No. C134-25 pages) Hennessey, C.J.)

(386 Mass. 197) James T. Grady for Boston Teachers Union, Local 66, Matthew E. Dwyer, for Boston Public School Building Custodians' Association, intervener; Richard W. Coleman & Paul F. Kelly, for Boston Association of School Administrators and Supervisors, Local 6, AFL-CIO, intervener. Harold J. Carroll, Corporation Counsel and Marcia Seeler, Special Assistant Corporation Counsel, for the city of Boston, intervener. Allan W. Drachman and Philip Collins for School Committee of Boston. James F. Kavanaugh, Jr. and Chester A. Janiak for the City Council of Boston. Margot Botsford & S. Stephen Rosenfeld, for Boston Teachers' Seniority Coalition, amicus curiae, submitted a brief.

Comm. from Richard M. Kobayashi, Dep. Administrator, EOCD Re: the role of City Councils and Mayors in the School Budget process.

*copy sent to City Manager & City Secretary
6/6/82 mly*

In City Council,

June 7, 1982

6/7/1982

*Referred to the
Eng and City Secretary
for Report*