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IN THE SUPREME COURT OF THE STATE OF OREGON

DEC 20 2005

— SUPREME COURT
— COURT OF APPEALS
— DEPUTY — FILED

12-23-05

D. GRANT WALTER and SERVICE
EMPLOYEES INTERNATIONAL UNION
LOCAL 140,

Petitioners, and Petitioners-
on-Review,

vs.

JAMES SCHERZINGER and PORTLAND
SCHOOL DISTRICT NO. 1J,

Respondents, and
Respondents-on-Review.

Supreme Court No. S51669 ³²

Court of Appeals No. A118491

Employment Relations Board Case No.
DR-4-02

**BRIEF OF VERA KATZ, NORMA PAULUS AND
CAROL TURNER AS *AMICI CURIAE***

Petition to Reconsider the Decision of the Supreme Court Reversing Decisions of the
Court of Appeals and the Employment Relations Board

Date of Opinion: October 13, 2005
Author of Opinion: De Muniz, J
Dissenting: Balmer, J. joined by
Carson, C. and Gillette, J.

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December 19, 2005

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This matter is of vital importance to the area served by the District and to the State of Oregon. Therefore, amici strongly urge this court to give careful consideration to the District's Petition for Reconsideration.

The Money Crisis

The need for high quality K-12 education in the twenty-first century is well known. The Oregon Legislature has spelled out extensive goals and standards for achieving "academic excellence," ORS 329.015 (2)(a), and "a modern and efficient" K-12 system, ORS 326.011. Appendix A contains five of those statutes. Some examples: "Access to a quality education must be provided for all of Oregon's youth regardless of linguistic background, culture, race, gender, capability or geographic location," ORS 329.035(2). There must be "alternative learning environments" for disadvantaged students, Ibid. (4)(c). The system is to "establish early childhood programs,." Ibid. (4)(d). The system shall transport children "safely to and from school," ORS 329.025(13).

Unfortunately, the funding difficulties that have beset Oregon's schools since the passage of Measure 5 are as acute as the need to "prepare [the students] for the ever-changing world," ORS 329.015 (2)(c). Programs have been dropped, the District's workforce has been cut, and physical plant has suffered.

The current year budget was hit by a \$40-million cut in revenues when a voter-approved funding initiative expired and the state eliminated desegregation funding. The School District also had to budget \$3 million from operating dollars for the most critical building maintenance needs after the expiration of the \$200-million 10-year capital bond levy.

The 2006-7 budget faces an even larger hit, approximately 50 million dollars, because

buses with propane instead of gasoline, refinanced its PERS liability at lower rate, cut central office administrative jobs and building support jobs, and taken steps to mitigate increases in insurance and benefits costs. The District also took the step at issue herein, contracting out janitorial services.

Despite such measures, the District lost more than 250 teaching positions in the current school year. That enforced loss demonstrates that the District has reached the end point in meeting revenue losses by making cuts that do not directly impact its mandate to educate.

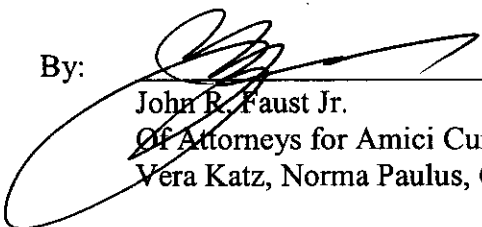
Every dollar lost must necessarily impair the District's ability to perform its statutory obligation to teach children who more than ever need to be taught.

Because of this, your amici respectfully but strongly urge this court to examine and consider carefully the District's Petition for Reconsideration herein.

DATED this 19th day of December, 2005.

SCHWABE, WILLIAMSON & WYATT, P.C.

By:



John R. Faust Jr.
Of Attorneys for Amici Curiae
Vera Katz, Norma Paulus, Carol Turner

APPENDIX OF STATUTES

ORS 326.011

ORS 329.015

ORS 329.025

ORS 329.035

ORS 332.072

326.011 Policy. In establishing policy for the administration and operation of the public elementary and secondary schools and public community colleges in the State of Oregon and in carrying out its duties as prescribed by law, the State Board of Education shall consider the goals of modern education, the requirements of a sound, comprehensive curriculum best suited to the needs of the students and the public and any other factors consistent with the maintenance of a modern and efficient elementary and secondary school system and community college program. [1965 c.100 §1; 1971 c.513 §8]

329.015 Educational goals. (1) The Legislative Assembly believes that education is a major civilizing influence on the development of a humane, responsible and informed citizenry, able to adjust to and grow in a rapidly changing world. Students must be encouraged to learn of their heritage and their place in the global society. The Legislative Assembly concludes that these goals are not inconsistent with the goals to be implemented under this chapter.

(2) The Legislative Assembly believes that the goals of kindergarten through grade 12 education are:

(a) To demand academic excellence through a rigorous academic program that equips students with the information and skills necessary to pursue the future of their choice;

(b) To provide an environment that motivates students to pursue serious scholarship and to have experience in applying knowledge and skills and demonstrating achievement; and

(c) To provide students with lifelong academic skills that will prepare them for the ever-changing world. [Formerly 326.710; 1995 c.660 §3]

329.025 Characteristics of school system. It is the intent of the Legislative Assembly to maintain a system of public elementary and secondary schools that allows students, parents, teachers, administrators, school district boards and the State Board of Education to be accountable for the development and improvement of the public school system. The public school system shall have the following characteristics:

(1) Provides equal and open access and educational opportunities for all students in the state regardless of their linguistic background, culture, race, gender, capability or geographic location;

(2) Assumes that all students can learn and establishes high, specific skill and knowledge expectations and recognizes individual differences at all instructional levels;

(3) Provides special education, compensatory education, linguistically and culturally appropriate education and other specialized programs to all students who need those services;

(4) Provides students with a solid foundation in the skills of reading, writing, problem solving and communication;

(5) Provides opportunities for students to learn, think, reason, retrieve information, use technology and work effectively alone and in groups;

(6) Provides for rigorous academic content standards and instruction in mathematics, science, English, history, geography, economics, civics, physical education, health, the arts and second languages;

(7) Provides students an educational background to the end that they will function successfully in a constitutional republic, a participatory democracy and a multicultural nation and world;

(8) Provides students with the knowledge and skills that will provide the opportunities to succeed in the world of work, as members of families and as citizens;

(9) Provides students with the knowledge, skills and positive attitude that lead to an active, healthy lifestyle;

(10) Provides students with the knowledge and skills to take responsibility for their decisions and choices;

(11) Provides opportunities for students to learn through a variety of teaching strategies;

(12) Emphasizes involvement of parents and the community in the total education of students;

(13) Transports children safely to and from school;

(14) Ensures that the funds allocated to schools reflect the uncontrollable differences in costs facing each district;

(15) Ensures that local schools have adequate control of how funds are spent to best meet the needs of students in their communities; and

(16) Provides for a safe, educational environment. [Formerly 326.715; 1995 c.660 §4; 1999 c.1029 §2; 2003 c.303 §3]

329.035 Findings; objectives. The Legislative Assembly declares that:

(1) The State of Oregon believes that all students can learn and should be held to rigorous academic content standards and expected to succeed.

(2) Access to a quality education must be provided for all of Oregon's youth regardless of linguistic background, culture, race, gender, capability or geographic location.

(3) A restructured educational system is necessary to achieve the state's goals of the best educated citizens in the nation and the world.

(4) The specific objectives of this chapter and ORS 329.905 to 329.975 are:

(a) To achieve the highest standards of academic content and performance;

(b) In addition to a diploma, to establish the Certificates of Initial Mastery and Advanced Mastery as evidence of new high academic standards of performance for all students;

(c) To establish alternative learning environments and services for students who experience difficulties in achieving state or local academic standards;

(d) To establish early childhood programs and academic professional technical programs as part of a comprehensive educational system; and

(e) To establish partnerships among business, labor and the educational community in the development of standards for academic professional technical endorsements and provide work-related learning experiences necessary to achieve those standards. [Formerly 326.720; 1995 c.660 §5; 2003 c.303 §4]

332.072 Legal status of school districts. All school districts are bodies corporate, and the district school board is authorized to transact all business coming within the jurisdiction of the district and to sue and be sued. Pursuant to law, district school boards have control of the district schools and are responsible for educating children residing in the district. [1965 c.100 §139]

CERTIFICATE OF FILING AND SERVICE

I certify that on the 19th of December, I filed the foregoing Brief of Vera Katz, Norma Paulus, and Carol Turner As *Amici Curiae* by mailing the original and 15 copies thereof by first-class mail via the U.S. Postal Service to:

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I certify that on the 19th of December, I served the foregoing Brief of Vera Katz, Norma Paulus and Carol Turner As *Amici Curiae* by mailing two true copies thereof by first-class mail via the U.S. Postal Service to:

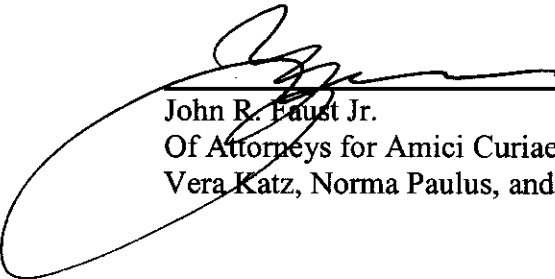
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