



Massachusetts Association of School Committees, Inc.

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Stephen J. Finnegan, General Counsel

VIA REGULAR MAIL AND FACSIMILE

Mr. Glenn Koocher
Massachusetts Association of School Committees, Inc.
One McKinley Square
Boston, MA 02109

May 27, 2014

RE: The School Committee Policy Authority to Establish Whether PARCC or MCAS Should Be Administered in the Spring of 2015.

Dear Mr. Koocher:

Part of the information you forwarded to me included a recent Update from the Department of Elementary and Secondary Education (DESE) that states, in part, as follows: "Commissioner Chester will provide school districts with the opportunity to choose whether to administer PARCC or MCAS in their own district in spring 2015." You have requested an opinion from me as to whether the superintendent or the school committee has the authority to make the decision for the school district.

The general powers and duties of school committees are enumerated in M. G. L. c. § 37. This section of the law has been interpreted by the courts on many occasions, most notably in *Leonard v. The School Committee of Springfield*, 241 Mass. 435 (1922) which states, in pertinent part, as follows:

"The policy of the Commonwealth from early times has been to establish a board elected directly by the people separate from other governing boards of the several municipalities and to place the control of the public schools within the jurisdiction of that body unhampered as to the details of administration and not subject to review by any other board or tribunal as to acts performed in good faith."

This broad grant of authority as referenced in *Leonard* has consistently been cited in many subsequent cases. The General Court is the source of authority of school committees and can limit or extend their power (*Opinion of the Justices* (1955) 332 Mass. 785). Mass. General Laws, chapter 71, § 37 was amended by the so-called Education

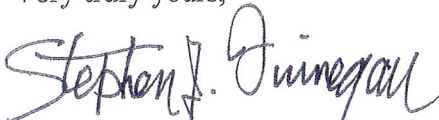
Reform Act of 1993 by deleting the school committees authority to exercise “general charge of all the public schools” and inserting in place thereof, in pertinent part, the following:

‘The school committee in each city and town and regional school district shall have the power to select and to terminate the superintendent, shall review and approve budgets for public education in the district, *and shall establish educational goals and policies for the schools in the district consistent with the requirements of law and statewide goals and standards established by the board of education.*’ [Emphasis added]

The authority of a school committee to establish educational goals and policies is undiminished by the 1993 amendment and is central to the mission of the school committee. The superintendent is charged with managing the school district subject to state law and the policy determinations of each school committee (M.G. L. c. 71 § 59). The decision to administer PARCC or MCAS is a major policy decision similar to examples given in the DESE Advisory on Governance (November 1995) that requires the approval of the school committee. The Department of Elementary and Secondary Education has chosen to devolve the decision concerning whether to administer PARCC or MCAS for the spring of 2015 to school districts. It is my opinion for the above stated reasons that the decision to administer PARCC or MCAS in the spring of 2015 requires the approval of the school committee, and I would suggest that the school committee should solicit the recommendation of the superintendent.

If you have any further questions please contact me.

Very truly yours,


Stephen J. Finnegan, Esq.

CP