

SUPREME COURT OF VERMONT

Athens School District v. Vermont State Board of Education

2020 VT 52 · No. Nos. 2019-185 & 2019-241 · Decided July 10, 2020

SUMMARY

The Vermont Supreme Court reviewed challenges to the implementation of Acts 46 and 49, which addressed the voluntary and involuntary merger of Vermont school districts. Plaintiffs argued that the Vermont State Board of Education and Agency of Education failed to follow the statutes and violated statutory and constitutional provisions, including limits on legislative delegation. The court rejected those arguments and affirmed the lower court’s decisions.

CASE DETAILS

COURT	Supreme Court of Vermont
WRITING FOR THE COURT	Chief Justice Reiber; Justice Robinson; Justice Eaton; Justice Carroll; Justice Cohen
JURISDICTION	Vermont
DECIDED	July 10, 2020
DOCKET	Nos. 2019-185 & 2019-241
DISPOSITION	affirmed
PROCEDURAL POSTURE	Consolidated appeals from the Franklin Unit of the Vermont Superior Court, Civil Division, challenging the Vermont State Board of Education's implementation of Acts 46 and 49 and its statewide order merging and realigning school districts.
STANDARD OF REVIEW	Questions of law are reviewed de novo. The Court generally defers to an agency's reasonable interpretation of an ambiguous statute entrusted to the agency's administration, but gives no deference to constitutional challenges to the application of a statute. Because the Court concluded that the relevant statutory language did not require the plaintiffs' proposed threshold necessity finding, the statutory analysis did not depend on deference to the agency.
PRECEDENTIAL VALUE	Published precedential opinion
PARTIES	Athens School District et al., independent school districts, school boards, parents, students, citizens v. Vermont State Board of Education

TOPICS

statutory interpretation

administrative law

judicial review of agency action

separation of powers

appellate procedure

PRACTICE AREAS

administrative law

education law

constitutional law

municipal law

statutory interpretation

QUESTIONS PRESENTED

1. Whether Acts 46 and 49 required the Agency and Board to make a separate threshold finding that each involuntary merger was necessary, rather than merely possible and practicable under the statutory governance goals.
2. Whether the Agency and Board failed to fairly review and consider school districts' proposals under Act 46 § 9.
3. Whether Act 46 § 10 provided the exclusive authority for involuntary mergers or conflicted with other provisions of Title 16 requiring local votes concerning mergers, debts, or assets.
4. Whether Acts 46 and 49 unconstitutionally delegated legislative authority to the Agency and Board to create, merge, dissolve, and reorganize school districts and to establish default articles of agreement.
5. Whether the Board's implementation of Acts 46 and 49 violated the Vermont Constitution's Education Clause or Common Benefits Clause, including whether those claims were ripe.

HOLDINGS

1. Act 46 did not create a separate threshold necessity finding beyond its directive that the Board take feasible action to establish preferred governance structures, or approved alternative structures where a preferred structure was not possible or was not the best model for the region. The statute presumed that preferred structures furthered the Act's goals unless an objecting district established that its proposed alternative structure was superior.
2. The Agency and Board adequately considered the districts' § 9 proposals and gave submitting districts opportunities to identify errors, discuss proposals, and amend them.
3. Act 46 § 10 and 16 V.S.A. § 165 address distinct matters, and § 165 was not the exclusive authority for involuntary school-district mergers.
4. Title 16 provisions governing voluntary union-district formation or inclusion of districts in an existing union did not apply to or prohibit state-initiated involuntary mergers under Act 46 § 10.
5. Acts 46 and 49 did not unconstitutionally delegate legislative power to the Agency and Board to create, merge, dissolve, or reorganize school districts or to establish default articles of agreement.

6. The Board's implementation did not violate the Vermont Education Clause. Plaintiffs' claim that Act 46 would inevitably close town schools was speculative, and Act 46 expressly sought to consolidate districts rather than close schools.
7. The Common Benefits Clause claim was not ripe and did not establish that Act 46 or the Board's order violated the Vermont Constitution.

KEY QUOTATIONS

“There is no mandatory threshold necessity finding separate from Act 46’s directive that the Board take all feasible actions, whenever possible and practicable, to merge schools into preferred or alternative governance structures within each region.” (¶ 25)

“Indeed, it is difficult to imagine more specific guidance for the Board to apply its discretion within the bounds of the authority delegated to it by the Legislature.” (¶ 45)

FACTUAL BACKGROUND

Vermont enacted Act 46 in 2015 and Act 49 in 2017 to address declining enrollment, fragmented school governance, educational equity, and administrative inefficiency. The statutes created voluntary merger incentives and a second-phase process under which the Agency of Education and State Board of Education developed a statewide plan for preferred or approved alternative governance structures. In November 2018, the Board ordered the merger of forty-two districts into eleven new union school districts, enlarged an existing union district, ordered or conditionally required additional transitions, and left forty-seven districts unchanged.

PROCEDURAL HISTORY

Plaintiffs filed a Vermont Rule of Civil Procedure 75 action seeking to vacate all or part of the Board's final order. The civil division denied a preliminary injunction, dismissed the due-process and unconstitutional-delegation counts, and later granted defendants summary judgment on the remaining claims. The Vermont Supreme Court consolidated plaintiffs' appeals and affirmed.

DISPOSITION

affirmed

CASES CITED

- Hallsmith v. City of Montpelier, 2015 VT 83, ¶ 9, 199 Vt. 488, 125 A.3d 882
- In re Korrow Real Estate, LLC Act 250 Permit Amendment Application, 2018 VT 39, ¶ 20, 207 Vt. 274, 187 A.3d 1125
- In re Williston Inn Grp., 2008 VT 47, ¶ 12, 183 Vt. 621, 949 A.2d 1073 (mem.)
- C&S Wholesale Grocers, Inc. v. Dep’t of Taxes, 2016 VT 77A, ¶ 10, 203 Vt. 183, 155 A.3d 169
- Gasoline Marketers of Vt., Inc. v. Agency of Nat. Res., 169 Vt. 504, 508, 739 A.2d 1230, 1233 (1999)
- Negotiations Comm. of Caledonia Cent. Supervisory Union v. Caledonia Cent. Educ. Ass’n, 2018 VT 18, ¶ 14, 206 Vt. 636, 184 A.3d 236

- Gallipo v. City of Rutland, 173 Vt. 223, 235, 789 A.2d 942, 951 (2001)
- State of Vt. Agency of Nat. Res. v. Parkway Cleaners, 2019 VT 21, ¶ 40, 210 A.3d 445
- State v. Lynch, 137 Vt. 607, 610, 409 A.2d 1001, 1003 (1979)
- Opinion of the Justices, 246 A.2d 90, 93-94 (Del. 1968)
- State v. Curley-Egan, 2006 VT 95, ¶ 27, 180 Vt. 305, 910 A.2d 200
- Hunter v. State, 2004 VT 108, ¶¶ 21, 27, 177 Vt. 339, 865 A.2d 381
- In re B & M Realty, LLC, 2016 VT 114, ¶ 28, 203 Vt. 438, 158 A.3d 754
- Rogers v. Watson, 156 Vt. 483, 493, 594 A.2d 409, 415 (1991)
- Vt. Home Mortg. Credit Agency v. Montpelier Nat'l Bank, 128 Vt. 272, 278, 262 A.2d 445, 449-50 (1970)
- Vill. of Waterbury v. Melendy, 109 Vt. 441, 451, 199 A. 236, 241 (1938)
- Marshall Field & Co. v. Clark, 143 U.S. 649, 694 (1892)
- Skinner v. Mid-America Pipeline Co., 490 U.S. 212, 218 (1989)
- Whitman v. American Trucking Ass'n, 531 U.S. 457, 472 (2001)
- State v. Auclair, 110 Vt. 147, 163, 4 A.2d 107, 114 (1939)
- In re Municipal Charters, 86 Vt. 562, 86 A. 307 (1913)
- Town of Barre v. Sch. Dist. No. 13, 67 Vt. 108, 112-13, 30 A. 807, 808 (1894)
- Pierce v. Whitman, 23 Vt. 626, 628 (1851)
- Appelget v. Baird, 126 Vt. 503, 504, 236 A.2d 671, 672 (1967)
- Brigham v. State, 166 Vt. 246, 259, 264-65, 268, 692 A.2d 384, 392, 395-97 (1997) (per curiam)
- Stowe Citizens for Responsible Gov't v. State, 169 Vt. 559, 561, 730 A.2d 573, 576 (1999) (mem.)
- Baker v. State, 170 Vt. 194, 203, 206, 744 A.2d 864, 871, 873 (1999)
- National Federation of Independent Business v. Sebelius, 567 U.S. 519, 538 (2012)