



The

Challenge

March 2002



Fayette judge rules in favor of citizens

During the past month, the Fayette County Board of Education bought out the contract of Superintendent Harry Hoffer, lost two board members and saw school closings stopped dead in their tracks, at least for this year.

The actions followed two decisions by Circuit Judge John Hatcher. In the first ruling, Hatcher granted a permanent injunction in response to a lawsuit filed

by two Fayette County Citizen Groups alleging that the school board violated the state's open meetings law.

In issuing the injunction, Hatcher called the board's decision to hold closure hearings for 12 schools on a single day in January "an egregious affront to the principles of democracy."

In the second case, Hatcher ruled that two board members were

ineligible to serve because they also held seats on public service district boards.

The three remaining board members then worked out an agreement to buy out Hoffer's one-year contract in exchange for his immediate resignation. The contract was to have expired at the end of June,

"The Board finally may be getting the message that they can't run roughshod over the people who pay the bills," said Carolyn Arritt, the Fayette County fellow for Challenge WV.

Arritt, one of those involved in seeking the injunction, said the room where the hearings were held had seating for only 75 people and the board imposed time limits on those who wanted to address the proposed consolidation actions.

She said residents who couldn't fit into the room had to listen from a sound system in the hallway, and an estimated 100 people were outside the building unable to even hear.

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Some students at Ivydale Elementary received school shirts, compliments of Challenge WV's Clay County fellow Marge Bragg. Marge purchased shirts for 20 students whose parents could not pay for them. Hannah Little, Marge's granddaughter, models the shirt.

House approves bill creating procedure for school closings

In the aftermath of the Fayette County school closing hearings, the West Virginia House of Delegates unanimously approved a bill creating a statewide procedure for any county considering closing a school.

The bill bars more than one hearing a day and requires that school boards allow parents, teachers and other community members a full public hearing in a venue large enough to

accommodate them. The State Senate will take up the bill.

The West Virginia Department of Education has supported a policy of school consolidation since the 1980s. The state has lost more than a quarter of its public schools since 1990 and 151 more are targeted for closure.

"The Fayette County case is interesting to those

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This 'n that from around the state

- The West Virginia House of Delegates has passed a bill creating an eight-person commission to oversee school reviews conducted by the Office of Education Performance Audits. The commission would include four legislators, a governor's designee and three education officials – the Higher Education Policy Commission chairman, the State Superintendent of Schools and the president of the State Board of Education. Calling the bill an “encroachment,” Audit office director Kenna Seal said the move is an effort to pull authority away from the State Board and give it to the Legislature. The bill also has a requirement that school inspections be announced.



- Children from West Virginia's wealthier counties are more likely to have the high grades and test scores to qualify for the PROMISE scholarships, according to a report in The Charleston Gazette. Counties with the highest expected number of students eligible for the scholarships are Kanawha, Pendleton, Cabell, Marshall, Doddridge, Mason, Tyler, Lewis, Putnam and Ritchie. The counties with the lowest expected numbers of scholarships are Mercer, Mingo, Lincoln, Mineral, Monroe, Morgan, Wirt, Fayette, McDowell, Pleasants and Webster.

- The Ritchie County Board of Education has voted to close Cairo Elementary, which was included on the state's list of exemplary schools.

- Opponents of a plan to close Union Junior High School in Marshall County have filed a civil complaint questioning the county board of education's use of private lawyers to represent it in various matters. The complaint alleges the school board paid more than \$221,000 in legal fees to private lawyers during a three- to five-year period. A group called Save Our Schools filed a complaint with the West Virginia chapter of the American Civil Liberties Union alleging the proposed closure would discriminate against low-income students.

- The Raleigh County Board of Education has voted to hold a closure hearing for Marsh Fork High School. Board member Jim Justice, who has said he opposes closing the school, challenged a recommendation by Superintendent Charlotte Hutchens to hold the hearing in Beckley. The final vote to hold the hearings at Marsh Fork was met by

applause from the approximately 40 residents who attended the meeting. Parents and teachers have beseeched the board not to close the school, saying closure would result in a higher dropout rate and long bus rides. “Closing our school would not be in the best interests of the safety of our children,” said Stella Bone, a parent with two children at the school. “The long bus rides on those roads with logging trucks and coal trucks is not safe.”

- Preston County School Board President Dr. Tim Miller has resigned to resolve a conflict of interest between his position on the board and a part-time job at Preston Memorial Hospital. The State Ethics Commission said Miller's hospital emergency room job is a conflict of interest because the board contracts with the hospital for pre-employment physicals and drug and alcohol tests.

- Because McDowell County's school system wasn't covered by flood insurance, it will not be reimbursed for all its losses in last summer's floods, according to a report in The Charleston Gazette. Stephen Kappa, director of the state Office of Emergency Services, said without flood insurance, the first \$500,000 in structural damage and the first \$500,000 in content damage aren't reimbursable. In addition, the county hasn't been reimbursed for some flood repair bills because the board hasn't submitted the necessary inventory of flood-damaged items.

- School superintendents in Cabell, Harrison and Monongalia counties have received new contracts and annual pay raises. Harrison County Superintendent Carl Friebe will receive a \$12,000 raise during his three-year contract. His current salary of \$86,500 will increase to \$98,500 by the third year. Cabell County Superintendent David Roach's four-year contract will increase from \$80,000 to \$98,998 and Monongalia County Superintendent Michael Vetere's salary will increase from \$86,000 to \$101,000 over three years.

- A Mingo County school bus driver was suspended without pay for five days after leaving a sleeping kindergarten student on the bus following the morning run. The six-year-old was discovered after his father called the school about an hour later to change the child's bus run. The child was unhurt.

Small schools advocates win in Fayette County

During the past year community members had tried to suggest a number of cost-saving methods that also would preserve the county's schools, but the superintendent and board members were not responsive, Arritt said. Residents' questions about curriculum, transportation and extra-curricular activities went unanswered.

Even when 86 percent of voters rejected a \$39 million bond in May, the board didn't get the message, Arritt said. "They were determined to consolidate the seven high schools into four no matter what the citizens of the county wanted," she said.

The judge agreed that the board violated both the spirit and letter of the law when it conducted five hearings for 12 schools, beginning at 8 a.m. and running all day.

He pointed out that the county has many other buildings that were available and could have accommodated the large number of people who came to the hearings.

He pointed out that the First Amendment to the Constitution, as well as West Virginia law, envisions people attending and participating in government, not just watching their elected officials take action.

Barry Bruce, an attorney representing The Meadow Bridge Citizens for Community Schools

'And it should echo around the state about what school boards should do when considering ramming consolidation down citizens' throats.'

— Citizen attorney Barry Bruce

and Mount Hope Citizens for Community Schools, said Hatcher's ruling made a huge statement for the people of Fayette County.

"And it should echo around the state about what school boards should do when considering ramming consolidation down citizens' throats," Bruce said.

Hatcher said the Board also violated the open meetings law when it met the following Monday and voted to close four high schools without allowing any citizen comment.

Dozens of people waited outside the locked board of education office only to learn they would not be allowed to address the board, Arritt said.

They were told the board considered the meeting a "special meeting" which would involve only the vote on the closures.

West Virginia Education Association President Tom Lange was among those who were not allowed to comment.

The state Education Association and the West Virginia Federation of Teachers joined the community groups in

seeking the injunction.

"You are taking the public out of public comment," Lange said. Lange had presented a written report, outlining the financial condition of the school system.

He said his information suggested such drastic consolidation is not needed, and "...for a board to create such uncertainty and chaos

in a school system is unconscionable."

Hatcher said the right of people to attend as well as participate in government was thwarted by the hearings, which "by design, format and location . . . were unreasonable by a matter of fact and law."

He said the board, which acted on the advice of Superintendent Hoffer, "should have told the superintendent that reason and common sense dictate that all the people who wanted to attend could not be accommodated in that room."

By deciding to hold the daylong hearings in a small room, the board created "an air of anger and distrust," he said.

Legislation. . .

who favor community schools for a couple of reasons," said Linda Martin, coordinator of Challenge WV.

"In the past, the executive and legislative leadership have supported consolidation. But this time there was a swift response by lawmakers against the rush to consolidate.

"It's also interesting that the injunctive effort was joined by the state's two teacher organizations, The West Virginia Education Association and the West Virginia Federation of Teachers.

"It's hard not to interpret this as an action against the forcing school

consolidations without even giving citizens the right to speak out in support of community schools," she said.

State Senator Leonard Anderson, who represents Fayette County in the state Legislature, asked the Fayette County board to rescind the vote to close the four county high schools.

"By not allowing those who attended the meeting to speak or to ask questions, the school board denied the basic right of taxpayers to petition their elected officials," Anderson said.

"They denied the residents the right to participate in the Democratic process."

The Challenge

The Challenge is published monthly by Challenge West Virginia, a statewide organization committed to maintaining and improving small community schools and reforming education policy in West Virginia so that all of our state's children have the opportunity to receive a first-class education and the promise of a bright future.

Challenge members believe state education policy, which has resulted in the closing of a fourth of West Virginia's schools during the past ten years, does not serve the best interest of many children, especially those from low-income families who live in rural areas.

Challenge West Virginia is a program of Covenant House, an independent, non-profit organization in Charleston, WV, which is not connected to any other program by the same name.

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