



The

Challenge



September 2002

McDowell citizens challenge school closures

A lawsuit has been filed challenging the closures of several schools in the state-controlled McDowell County school system.

On Aug. 16, 2002, WV University Professor of Law Robert Bastress filed the lawsuit on behalf of several McDowell County citizens; the Town of War; the Town's mayor, Thomas Hatcher and McDowell County citizens' groups TOPS in Education and Big Creek People in Action.

The lawsuit asserts that state officials have improperly closed Northfork Middle School, Welch Middle School and

Panther Elementary School, and are planning to close Big Creek and Iaeger high schools in the same improper manner.

The state seized control of the McDowell County school system last November after inspectors with the WV Department of Education Office of Education Performance Audits found 260 violations of education laws and regulations in the school system. *W.Va. Code* §18-2E-5 allows the state to take control of county school systems under certain circumstances.

After taking control, State Superintendent of Schools Dr. David Stewart

appointed Dr. Mark Manchin to the position of county superintendent. Manchin is the son of former State Treasurer and Secretary of State A. James Manchin.

Within a short period of time following the seizure, the new administration revised the county's Comprehensive Educational Facilities Plan to include the closure of Northfork and Welch middle schools.

After last year's flooding, which caused the McDowell County school year to end several weeks early, Manchin ordered that Northfork Middle School remain closed per-

manently.

Administrators have ordered Welch Middle School and Panther Elementary School to close this year and have made statements indicating their intent to consolidate Big Creek and Iaeger high schools in the near future.

All of these decisions have been made without holding public hearings and without a vote of the elected McDowell County Board of Education.

The issue in the case is whether the state is required to follow the school closing procedures prescribed by state law
See McDowell Page 3



A scene from Challenge's annual picnic where members gather to celebrate the past year's achievements.

Challenge WV Annual Conference

Friday, Sept. 27, 2002

10 a.m. to 3 p.m.

Charleston House Holiday Inn

Presentations on small schools, school transportation issues and place-based education.

Presenters include Drs. Aimee & Craig Howley of Ohio Univ., Dr. Doris Williams of the Rural Trust and Marty Newell of Univ. of Ky.

\$15 registration fee (includes lunch)

For more info contact Linda Martin at (304) 744-5916 or lbm94@aol.com

This 'n that from around the state

- The Charleston Gazette has begun an in-depth series of reports on school consolidation in West Virginia. In the series, entitled, "The Long Haul," Gazette reporters Eric Eyre and Scott Finn take a look at how school consolidation affects students, families and education funding in the state of West Virginia. The series began on Sunday, Aug. 25, 2002, and will continue in Sunday editions of the Gazette-Mail approximately every third week.
- The Charleston architectural firm Williamson, Shriver and Gandee has been chosen to handle changes to Mingo County's Comprehensive Educational Facilities Plan, which include a proposal for sweeping school consolidations. Those consolidations include the formation of two high schools to cover Mingo County. Burch, Gilbert, Matewan and Williamson high schools would be combined into one "South Comprehensive High School" while Tug Valley High School would become the "North Comprehensive High School," after adjustments are made to the Tug Valley attendance area. A new K-8 school is scheduled to open at Lenore in January 2003.
- The C Department of Education has announced plans to require all 10th graders in West Virginia Schools to take the ACT PLAN test. State officials say the new requirement is an effort to get more students to consider going to college. The ACT PLAN test is designed to give students an estimate of what their scores on the actual ACT examination will be. The new program is expected to cost \$1 million and will be administered to all 10th graders in all 55 counties.
- Kanawha County teachers are fighting a proposal to hold them accountable for on-the-job injuries. School administrators want to be able to factor school employees' safety records into personnel performance evaluations. According to school officials, as of mid-August, 50 Kanawha County school employees had filed a total of 202 Workers' Compensation claims since Jan. 1, 2002. The teachers believe the proposal is a way for central office administrators to discriminate against employees who file Workers' Comp claims.
- West Virginia has been selected as one of five other states to take part in a Bush Administration initiative known as the "No Child Left Behind Act." West Virginia, Alaska, Illinois, Mississippi, Pennsylvania and Tennessee will work to implement the program's first phase, which has been dubbed, "Follow the Leader." The program requires the state to administer standardized testing, in mathematics and reading, to all students in grades three through eight. Initially, only selected West Virginia schools will take part in the program. The particular schools have not been selected.
- During the November 5th General Election, voters in Putnam County will decide on a \$20.5 million bond issue. The proposal calls for the \$20.5 million to be added with \$3.6 million from the WV School Building Authority and \$3 million from the Putnam County BOE's general revenue fund, for use in school building renovations.
- By a vote of 4-to-1 the Putnam County Board of Education decided against making school consolidations a part of that school system's long-range plans. o Kanawha County voters will decide on a \$44.375 million excess levy on Nov. 4. This excess levy will cover the years 2004 through 2009. Of the total amount of revenue from the levy, \$13.89 million will be used for the repair and maintenance of the county's school buildings.
- The State Department of Education is projecting the loss of 6,000 West Virginia students over the next four years. Over the past four years, the state has gained 402 special education students, according to state figures. The total number of students enrolled in special education programs in the state is 54,115.
- During its August meeting, the State BOE questioned officials from the office of WV Attorney General Darrell V. McGraw. The topic of the questioning was an AG program, called the "Civil Rights Team Project" which has been implemented in 20 schools around the state. BOE members claimed ignorance of the program, which has been in operation for the past four years. Participating schools select three students in each grade to act as "monitors." The monitors' duty is to watch for discriminatory behavior among their fellow students and take action before the situations become violent. After expressing displeasure with the lack of communication between the AG and the BOE, no action was taken.
- The State BOE is considering a new policy concerning consolidations and closures of schools. The policy was created as a result of an act of the WV Legislature during this year's regular session. Legislators passed the new law in response to actions taken by the Fayette County Board of Education when holding "public" hearings on a sweeping school consolidation proposal. The school facilities planning policy is also being amended. Both can be seen at <http://wvde.state.wv.us>.

Lincoln Co. educators allege favoritism

Teachers and principals in Lincoln County have called for a State Board of Education investigation into the personnel practices of that county's state-appointed superintendent of schools.

In a letter to WV BOE President Sandra Chapman, members of the Lincoln County Principals' Association, the Lincoln County Education Association and the Lincoln County Chapter of the American Federation of Teachers complained that Superintendent Bill Grizzel has done nothing to correct many of the personnel problems cited by state inspectors prior to the state takeover of Lincoln County Schools. In fact, the educators say that many of the problems have gotten worse since the takeover.

In June 2000, the State BOE declared a state of

emergency in Lincoln County schools following an evaluation by the WV Department of Education Office of Education Performance Audits.

The Lincoln County audit disclosed numerous problems with the personnel system in Lincoln County. The evaluators' 182-page report included 37 pages devoted to listing the county's noncompliances with state laws and policies.

The audit found that, in many instances, jobs were created as rewards for certain employees and employees were selected for jobs prior to the positions being posted.

The educators complain that, under the new administration, there seems to be no improvement in the unfair personnel practices.

"Many of the administrative deficiencies cited in the audit report have

continued, and some have gotten worse," the letter reads.

The letter complains that, even though concerns over the problems were discussed with the superintendent last fall, the current administration continues to violate personnel laws.

"There are suspicions of pre-announced job rigging, selected personnel being placed into positions that were never advertised, people having positions without specific job duties and corresponding job descriptions and new positions being created at the county administrative office while positions are being cut in the schools," reads the letter.

The educators also complain about administrators ignoring concerns of school employees and not seeking any input from them.

The letter states, "There

appear to be incidents of favoritism for some employees, while harassment and intimidation seem to be reserved for others."

While noting that, "specific details are too lengthy to mention in this letter," the letter concludes, "The current situation in Lincoln County Schools is simply not acceptable and we ask that you and the state board take action in this matter."

According to statistics from the WV Education and State Employees Grievance Board, five Lincoln County personnel grievances were appealed to that board in 2001, seven in 2000, 20 in 1999, 30 in 1998 and 33 in 1997. Those numbers do not include grievances which were decided at a lower level.

The state has taken no action on the educators' request.

McDowell

and state regulations, when the state takes control of a county school system. The plaintiffs obviously believe the state is bound by the statutory procedure mandated by *W.Va. Code* §18-5-13, which requires a public hearing and a majority vote of the county board of education members prior to any decision to close or consolidate schools.

The lawsuit argues that *W.Va. Code* §18-2E-5 does

not exempt the state from following the same closure procedures as those with which county boards of education must comply. Additionally, the plaintiffs argue that the actions of the state violate Constitutional guarantees of the right to Due Process, the right to a "thorough and efficient" system of free schools and the right to petition government for a redress of grievances.

The lawsuit asks the court to issue an injunction

prohibiting state officials from closing any McDowell County school without following the procedures prescribed by state law and State BOE policy.

The complaint also asks for a declaratory judgment, holding that any closure of a McDowell County school without the approval of the McDowell County Board of Education, or the voters of McDowell County, would be null and void as a result of statutory and Constitutional violations.

The case has been

assigned to the docket of Kanawha County Circuit Judge Jennifer Bailey Walker.

Professor Bastress is an expert on West Virginia Constitutional law and is the author of the only definitive book on the subject.

The WV BOE has not yet filed an answer to the suit. A similar lawsuit filed by Logan County parents, after the state takeover of that county in the early 1990's, was dismissed due to a procedural mistake.

The Challenge

The Challenge is published monthly by Challenge West Virginia, a statewide organization committed to maintaining and improving small community schools.

Challenge West Virginia's goal is to reform education in West Virginia so that citizens have a voice in policy decisions and every child has the opportunity to receive a first-class education and the promise of a bright future.



Challenge West Virginia

A program of Covenant House, Charleston, WV

600 Shrewsbury Street
Charleston, WV 25301-1211

We Support Small Schools!

Non-Profit Organization
US Postage Paid
Permit 2673
Charleston, WV 25301

Challenge WV County Contacts

www.wvcovenanthouse.org/challengewv/

Braxton County Sue Clifton 304-765-2994	Jefferson County Paul Burke 304-876-2227 NumbersInstitute@Juno.com	Monongalia County Jon Frist 304-292-9599 jon.frist@us.army.mil	Raleigh County Lorelei Scarbro 304-854-1016 candlelight29@aol.com
Calhoun County Eric Rogers 304-655-7134 rpeskid@yahoo.com	Lincoln County Thomas Ramey Jr. 304-855-3930 tprameywv@hotmail.com	Morgan County Andy Andryshak 304-947-5664 andy.peace@frontiernet.net	Ritchie County Patty Deak 304-869-3462 pdeak@dot.state.wv.us
Clay County Marge Bragg 304-286-2655 ijram98@hotmail.com	Logan County Jo Ann Farmer 304-752-3400 jfarmer@AFSC.org	Nicholas County Bob Henry Baber 304-846-6644 wvpoet@richwoodwv.com	Webster County Cindy Miller 304-493-6369 KCACMiller@juno.com
Fayette County Carolyn Arritt 304-484-7919 Carritt-McCune@citynet.net	Marshall County Frank Longwell 304-232-1093	Preston County Jana Freeman 304-735-3411 Janaf11@hotmail.com	Coordinator Linda Martin 304-744-5916 LBM94@aol.com
Harrison County Paul Hamrick 304-622-5664 LITCCHC@AOL.com	McDowell County Marsha Timpson 304-875-3418 marshatimpson@hotmail.com	Putnam County Tim McCoy 304-586-9823 tmccoy@bna.com	