

Attendance Area Adjustment (Redistricting) Process

Presentation to TESD School Board
April 3, 2017

Kenneth Roos, Solicitor
Wisler Pearlstine, LLP
www.wislerpearlstine.com

School Code -§1310- Assignment of Pupils to Schools

(a) The board of school directors of every school district ... shall, for the purpose of designating the schools to be attended by the several pupils in the district ..., subdivide the district ... in such manner that all the pupils in the district shall be assigned to, and reasonably accommodated in, one of the public schools in the district

Hibbs v. Arensberg, 276 Pa. 24, 26 (Pa. Supreme Court 1923).

- We will not interfere with the discretionary exercise of a school board's power unless the action was based on "a misconception of law, ignorance through lack of inquiry into the facts necessary to form an intelligent judgment, or the result of arbitrary will or caprice."

Zebra V. Pittsburgh Sch. Dist., 449 Pa. 432
(Pa. Supreme Court 1972)

- “Judicial interference with a school board's performance of its discretionary duties can only be sustained where it is clearly shown that the school board acted outside the scope of its statutory authority or in bad faith.” p. 437
- “The assignment of school students to classes in a particular building within the school district is a task to which school boards are particularly well suited.” p. 441

Miller v. Lower Merion Sch. Dist., 21 Pa. Commw. 516 (Pa. Commw. Court 1975)

- An order by a board of school directors transferring certain children from one elementary school to another will not set aside when the evidence indicates that the teaching techniques are identical, the new school has adequate facilities approved by the department of education, the order was necessary and reasonable and was not arbitrary or capricious.

Balsbaugh v. Rowland, 447 Pa. 423, 290
A.2d 85 (Pa. Supreme Court 1972)

- The broad discretion given school boards in the assignment of pupils is not abused by requiring attendance at schools removed from their neighborhoods.

Restrictions on Use of Race

- As a general proposition, it is impermissible to use race as the determining factor in redistricting decisions. *See Parents Involved in Community Schools v. Seattle School District No. 1*, 127 S.Ct. 2738, 2751 (2007).
- However, decisions that may be classified not as “race determinative,” but more “race conscious” – in that they do not lead to different treatment based solely on one’s racial classification – may be permissible and upheld by a court if faced with such a challenge. *Id.* at 2792, Kennedy, concurring.

Legally Defensible Criteria for Balancing Attendance Areas

- Numbers of students
- Transportation routes
- Contiguous districts
- Proximity to attending schools
- Reasonably shaped districts