

RE:

No. 75-1914, Monell v. Dep't of Social Services

Legal Status of the New York City Board of Education

You asked for more information as to the legal status of the New York City Board of Education. The issue arises in the Monell case because of the [REDACTED] holding of the CA2 that the Board is an organ of the City and thus, pursuant to Monroe v. Pape, [REDACTED] not a "person" under § 1983.

I could find nothing in the New York State Constitution on the status of the New York City Board or ones like it. Nor is there anything definitive in the statutes. The CA relied on statutes relating to the Board's fiscal affairs. The Board's funds are appropriated by the City, subject to a statutory minimum amount; the Board receives its funds and pays its expenditures through the [REDACTED] City treasury; and the Board takes title to real property in the City's name. entirely

Other than these fiscal ties, however, the Board is substantially independent of the City. The New York Court of Appeals has made several statements to this effect, most explicitly in Lanza v. Wagner (1962):

It is perfectly clear . . . that . . . members of New York City's Board of Education are not "city officers" On the contrary, it has long been settled that the administration of public education is a State function to be kept separate and apart from all other local or municipal functions. Although members of a Board of Education in a city perform tasks generally regarded as connected with local government, they are officers of an independent corporation separate and distinct from the city, created by the State for the purpose of carrying out a purely State function and are not city officers "If there be one public policy well-established in this State," this court declared . . . , "it is that public education shall be beyond control by municipalities and politics. The Board of Education of the City of New York is not a department of the city government, it is an independent corporate body."

To the same effect is People ex rel. Wells & Newton Co. v. Craig (1921) (the New York City Board "is a corporation separate and distinct [redacted] from the city").

While these statements indicate that the Board is not [redacted] a department of the City, the cases also indicate that the Board can be considered an agency of the State. Maloff v. City Comm'n on Human Rights (1975); Lanza, supra. Taken in context, these state agency indications do not mean that the Board is functionally equivalent to the State for purposes of § 1983. As noted above, the Board is a separate corporate body, but [redacted] it must follow general educational policy set by the State. No case claims that the Board is a department of the State, as would seem to be required for the [redacted] Board to share the State's Eleventh Amendment immunity.

In summary, the Board is a hybrid: it is not part of the City and it is not part of the State, but it is not [redacted] entirely independent of either one. On the principle that the shaky reading of legislative history in Monroe should not be extended, I favor treating the Board differently from the City. If a majority feels otherwise and you join them, it is important to argue for a narrow holding, applicable only to the unique New York City Board, in order to avoid a broad holding that would foreclose relief against all boards of education, most of which do not have ties to a city like those that the Board has here.

PLS

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