



New York State Archives

**New York State Education Department Office of Counsel
Files of Appeals to the Superintendent of Public Instruction,
Commissioner of Education, and Board of Regents B0496**

New York State Archives
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Overview of the Records

Repository:	New York State Archives
Summary:	This series consists almost entirely of case files of appeals to the chief state school administrative officer by persons contesting the official actions of local school officials, school district meetings, or county treasurers. Each case file contains documents that correspond to the various stages of the appeals process. The bulk of the nineteenth century files date from 1868-1899.
Creator:	New York (State). Education Department. Office of Counsel
Title:	Files of appeals to the Superintendent of Public Instruction, Commissioner of Education, and Board of Regents
Quantity:	1453.6 cubic feet
Inclusive Date:	1842-1904, 1911-2014
Series:	B0496
Sponsor:	This series' description was enhanced as part of the States' Impact on Federal Education Policy Project (SIFEPP), in May 2010. The New York Community Trust - Wallace Special Projects Fund provided funding for this project.

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Arrangement

Decisions from 1868 to 1885 are arranged in rough chronological order by date of decision. Other decisions from 1868 and 1874 to 1885 are arranged in rough numeric order by decision number assigned to the case (also rough chronological order). Decisions from 1886 to 1904 are arranged chronologically by term of the Office of the Superintendent, then alphabetically by county name, then numerically by decision number. Decisions from 1911 to 2005 are arranged numerically by decision number.

B0496-19, B0496-23: Numerical.

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Administrative History

The judicial power to interpret school laws was vested in the Superintendent of Common Schools in 1822, transferred to the Superintendent of Public Instruction upon the creation of that office in 1854, and transferred to the Commissioner of Education upon creation of the State Education Department in 1904. Under Section 310 of the Education Law, any person can appeal the official actions of any local school official to the Commissioner, whose decision is a binding interpretation of the laws involved not normally reviewable in any court. (Court review is possible through initiation of a proceeding under Article 78 of the Civil Practice Law and Rules providing for review of judicial, quasi-judicial, or administrative determinations by a body or officer made pursuant to statute.) In addition, Education Law §306 allows the Commissioner of Education to remove a trustee, member of a board of education and certain other school officers for wilful misconduct or neglect of duty.

Procedures in appeals cases are established by the Commissioner of Education and published by the Counsel's Office in "Regulations of the Commissioner of Education Relating to Appeals and Other Proceedings Before the Commissioner," Handbook 1. These regulations are also found in Parts 275, 276 and 277 of the Commissioner's Regulations. Briefly, the appeals process is as follows: A written appeal or petition must be filed with the Commissioner within thirty days of the action being contested. The respondent must file an answer within ten days. Additional pleadings by either party may be allowed or required by the Commissioner. All pleadings must be served on the opposite party and proof of service filed with the Commissioner. Either party may submit legal briefs and exhibits in support of its case, and other interested parties may submit memoranda of law as *amicus curiae*. The Commissioner may allow oral argument of a case if requested by either party. Within thirty days of the Commissioner's decision either party may apply for reopening of the decision, and the Commissioner may dismiss an appeal at any stage if the petition is unclear or the issues involved have become academic. The burden of proof in an appeal to the Commissioner rests with the person bringing the petition; they must demonstrate a clear legal right to the relief requested and must establish all the facts upon which he or she seeks relief.

Between circa 1933 and 1964, appeals from determinations of the Motion Picture Division were made to the Board of Regents. A Regents' committee heard such appeals, and prepared a determination for issuance by the Chancellor. Texts or abstracts of the Regents' decisions are published in the Department Reports of the State of New York through 1958 and the Judicial Decisions of the Commissioner of Education starting in 1962.

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Scope and Content Note

This series consists almost entirely of case files of appeals to the chief state school administrative officer (Superintendent of Public Instruction, 1854-1904, Commissioner of Education, 1904-present) by persons contesting the official actions of local school officials, school district meetings, or county treasurers.

Typical subject matter of judicial decisions by the Superintendent of Public Instruction during the 19th century include school district trustees and boards of education; district meetings and elections; assessment and taxation of real property; expenditure of district funds; punishment and suspension of pupils; organization and dissolution of school districts; alteration of school districts (boundary alteration, annexation, or consolidation); selection and purchase of schoolhouse sites; construction and repair of schoolhouses; use of school property for religious exercises and other purposes; teacher examination and certification; and teacher contracts.

Typical subjects of 20th century decisions by the Commissioner of Education include district trustees and powers and duties of boards of education; New York City Board of Examiners (which formerly licensed teachers); school district boundaries; school district annual and special meetings; school district budgets; school buildings and sites; central school districts (establishment, annexation, etc.); city school districts (including New York City); teacher examination and certification; state financial aid; assessment and taxation; and contracts for goods or services (including pupil transportation).

Other subjects of appeals to the Commissioner of Education include eligibility of voters at school district meetings; the election, removal, or official acts of local school officials; validity of students' diplomas; removal of teachers and school principals; procedures in appeals; tuition charges; education of handicapped students; and racial imbalance in schools.

Each case file contains all or some of the following documents, which correspond to the various stages of the appeals process: the initial appeal from the petitioner; the answer from the respondent; replies from the petitioner, which may be optional or requested by the Commissioner; a rejoinder to the reply from the respondent, which also may be either optional or requested by the Commissioner; affidavits of service, affirming that the above documents have been given to the opposing party; copy of decision (beginning 1892); briefs submitted by either party or by amicus curiae; affidavits submitted in support of case; exhibits submitted in support of case, such as contract specifications, photographs of school facilities, school district maps, and licensing examinations and review papers; correspondence relating to submission of papers and requests for filing date extensions; notes taken during oral argument of the case; memorandums indicating who drafted the decision; drafts of the decision; and summary sheets giving the names of parties, attorneys, local superintendent of schools, dates of argument, and due dates of pleadings and briefs. Files from more recent appeals tend to contain more types of these materials.

Between circa 1933 and 1964 the series contains occasional appeals to and determinations by the Board of Regents for decisions of the Motion Picture Division. Each of these decisions

typically contain the appeal of motion picture distributor from determination of the MPD; answer of respondent (Director of MPD); Chancellor's designation of Regents as a committee to review film and prepare report; report and decision of Regent's committee (also draft); final determination of appeal (signed by Chancellor); and correspondence (incoming/outgoing).

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Related Information

Related Material

Consecutively numbered Series W0101 - W0109 and W0114 - W0115, subject files of individual Education Commissioners, contain some files related to appeals heard by the commissioner.

Texts of decisions referenced in this series are published annually by the New York State Education Department, and are available at the New York State Library. Texts of decisions made after July 1991 are available online at <http://www.counsel.nysed.gov/Decisions/>.

Related Publications

The following sources contain information about published decisions of the Superintendent of Public Instruction and the Commissioner of Education. Those decisions are essential tools for researchers and staff in identifying particular appeals files, because they usually include the case numbers. In addition, the published decisions are the only source of that information prior to 1911, because all the original decisions for the period 1822-1891 were destroyed in the Capitol fire of 1911.; John A. Dix, comp., *Decisions of the Superintendent of Common Schools of the State of New-York* (Albany: Croswell, Van Benthuysen & Burt, 1837). [Prints texts of most decisions issued during the period 1826-1837 in chronological order, with subject matter index at end of volume.]; *Code of Public Instruction of the State of New-York* (Albany: Weed, Parsons & Co., 1856). [Includes a digest of selected decisions issued by the Superintendent of Common Schools.]; Victor M. Rice, comp., *Laws of New York Relating to Common Schools, with Comments and Instructions, and a Digest of Decisions* (Albany: Weed, Parsons & Co., 1868). [Includes a digest of selected decisions issued during the period ca. 1837-1867, topically arranged, with subject matter index at end of volume.]; Emerson W. Keyes, comp., *Laws of New York Relating to Common Schools, with Comments and Instructions and a Digest of Decisions* (Albany: Weed, Parsons & Co., 1879). [Includes a digest of selected decisions issued during the period late 1830s-1878.]; James E. Kirk, ed., *Code of Public Instruction of the State of New York: Containing the Laws and Decisions Relating to Common Schools* (Albany: Weed, Parsons & Co., 1887). [Includes a digest of selected decisions issued during the period ca. 1839-1886, topically arranged, with subject matter index at end of volume.]; Thomas E. Finegan, comp., *Judicial Decisions of the State Superintendent of Common Schools, State Superintendent of Public Instruction, State Commissioner of Education from 1822 to 1913* (Albany: University of the State of New York, 1914). [Prints texts of decisions in about

800 of the 12,000 appeals filed between 1822 and 1914; decisions are arranged topically, then by appeal number; the original manuscript and typescript decisions from which this book was compiled were destroyed in the Capitol fire of 1911.]; N.Y. (State). Department of Public Instruction. Annual Report . . . , 1886-1904 (Albany: [various commercial publishers], 1887-1904). [Annual reports include selected judicial decisions of the Superintendent of Public Instruction.]; N.Y. (State). Education Department. Annual Report . . . , 1904-1912 (Albany: State Education Department, 1905-1913). [Annual reports contain selected judicial decisions of the Commissioner of Education.]; Department Reports of the State of New York (binding designation: "Official"), vols. 1-78 (Albany: [various commercial publishers], 1913-1958). [Published annually; generally cited as "State Department Reports"; includes decisions or determinations of several different state agencies or administrative entities; prints texts or abstracts of all decisions of the Commissioner of Education in appeal case number order; covers period 1912-1958; table of contents at fore of each volume provides name of school district or complainant. Cumulative index in vol. 44 (Albany: 1933), lists Commissioner's decisions found in vols. 1-41, for period 1912-1931.]; The State Department Reports of the State of New York (binding designation: "Unofficial"), 4 vols. (Albany: 1913-1914). [Includes full texts of "unofficial" decisions of Commissioner of Education for period 1912-1913 only; the definition of "unofficial" reports is not given.]; Judicial Decisions of the Commissioner of Education (commonly cited as "Education Department Reports") (Albany: State Education Department, Office of Counsel, 1962-1987; various commercial publishers, 1988-current) [Published annually; contains texts of decisions of Commissioner of Education, with appeal case numbers and decision dates.]; Unedited, unindexed texts of Commissioner's decisions for 1991-current year are available on the SED website: <http://www.counsel.nysed.gov/Decisions/dcommissionersdecisions>.

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Other Finding Aids

Available at Repository

B0496-20: Container list is available at the repository.

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Use of Records

Access Restrictions

Access to certain information in this series is restricted in accordance with New York State Freedom of Information Law (FOIL, Section 87.2), U.S. Family Educational Rights and

Privacy Act (FERPA, 20 USC Section 1232(g)), or New York State Education Law (Section 2-D) regarding unauthorized release of personally identifiable information about students.

State Archives staff will review requests for specific records and disclose in accordance with applicable laws.

Alternate Formats Available

Items Online

High resolution images of selected original documents relating to the Hillburn and Hempstead school segregation cases are available in State Archives Digital Collections.

[Files of Appeals to the Superintendent of Public Instruction, Commissioner of Education, and Board of Regents in Digital Collections](#)

Administrative Information

Acquisition Information

Portions of this series have been transferred to the State Archives under records disposition number 18450.

Processing Information

Until 2006, this series was entitled "Appeals Case Files."

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Access Terms

- Segregation in education--New York (State)--New York
- Educational law and legislation
- Teaching
- Education and state--New York (State)
- Case files
- New York (State)
- Maps (documents)
- Photographs
- Education
- University of the State of New York. Board of Regents