

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

VALERIE JABLOW, <i>et al.</i> ,)	
)	
Plaintiffs,)	2018 CA 005755 B
)	Judge Elizabeth Wingo
v.)	Next Court Date: September 14, 2018
)	Event: Status Hearing on
DISTRICT OF COLUMBIA,)	Preliminary Injunction
)	
Defendant.)	

**AMICUS STATEMENT OF WASHINGTON TEACHERS’ UNION IN SUPPORT OF
PLAINTIFFS’ REQUEST FOR PRELIMINARY INJUNCTION**

The Washington Teachers’ Union (“WTU” or “Union”) is a nonprofit association, labor union and collective bargaining representative for more than 5,400 active and retired teachers and other employees of the District of Columbia Public Schools (“DCPS”). Throughout its long history, originating with the earliest chartered teachers’ local unions in the United States and rooted in the movement for social justice, racial equality and civil rights, WTU has been a strong, principled advocate for the unique public mission of DCPS and the common rights and interests of DCPS employees, students and families. As the Plaintiffs and Defendant District of Columbia have shown in their prior filings, D.C. law requires the Mayor to establish a Chancellor selection “review panel” that includes “representatives of the Washington Teachers Union,” and to “give great weight to any recommendations of the Washington Teachers Union” with respect to candidates for DCPS Chancellor.

Based on WTU’s special role in the prescribed statutory process for selecting a Chancellor, and its direct interest in the subject matter of this case, WTU offers its input as amicus curiae and emphasizes the following points in support of the Plaintiffs’ request for a

preliminary injunction.¹

1. Section 38-174(b) of the D.C. Code, which governs the process for appointment of a DCPS Chancellor, provides as follows:

(1) Prior to the selection of a nominee for Chancellor, the Mayor shall:

(A) Establish a review panel of teachers, including representatives of the Washington Teachers Union, parents, and students (“panel”) to aid the Mayor in his or her selection of Chancellor;

(B) Provide the resumes and other pertinent information pertaining to the individuals under consideration, if any, to the panel; and

(C) Convene a meeting of the panel to hear the opinions and recommendations of the panel.

(2) The Mayor shall consider the opinions and recommendations of the panel in making his or her nomination and shall give great weight to any recommendation of the Washington Teachers Union.

D.C. Code § 38-174(b). This statutory requirement that the Chancellor selection process include a “review panel” of teachers (including WTU representatives), parents and students dates from 2007, when legislative action increased mayoral control and dramatically restricted the public’s role in the governance of the District of Columbia’s public school system. In particular, the elected Board of Education was eliminated and the mayor was given expansive power, including nomination of a DCPS Chancellor. At the same time, to ensure against the dilution of essential stakeholders’ voice and influence, the Council included a statutory guarantee of their effective participation in the Chancellor selection process by means of a review panel of teachers (including representatives of WTU, their collective bargaining agent), parents and students.

2. As WTU understands this lawsuit, the Plaintiffs here do not contend that Section 38-174(b) prohibits the Mayor from supplemental consultation with other groups or individuals, in her discretion. But the “review panel” mandated by Section 38-174(b)(1)(A), above, is the

¹ Counsel for WTU has conferred with counsel for Plaintiffs and Defendant to obtain their position regarding an amicus curiae submission by WTU and has been advised that Plaintiffs consent to and that Defendant opposes such a submission.

only panel the Mayor *must* “establish” and the only panel whose “opinions and recommendations” with respect to DCPS Chancellor candidates she *must* “hear” and “consider,” as a matter of law. And this particular “review panel,” with its composition prescribed by statute, is the *sole* mandated vehicle for delivering the “opinions and recommendations” of a unique grouping of specified DCPS stakeholders who are not part of DCPS or District “management” and who do not generally command special access to the Mayor: teachers (including WTU representatives), parents and students.

3. To date, the Mayor has not come close to establishing the “review panel” expressly prescribed by Section 38-174(b)(1)(A). Instead, on June 28, 2018, District Mayor Muriel Bowser announced the creation of a 14-member group, the “Our Schools Leadership Committee,” to “help guide our process to select a DCPS chancellor.” *See Mayor Bowser Kicks Off Search for DCPS Chancellor* (June 28, 2018), <https://mayor.dc.gov/release/mayor-bowser-kicks-search-dcps-chancellor>. This new committee, which the District refers to as “a panel of individuals,”² includes a host of apparently influential people but only one “representative” of the Washington Teachers’ Union (WTU President Elizabeth Davis), only one identified “teacher,” and only one identified “student.” Thus, on its face it fails to satisfy most of the statutory criteria (all stated in the plural) for “a review panel of teachers ... parents, and students,” with the “teachers” component “including representatives of the Washington Teachers Union.”

4. The fact that the Mayor’s “Leadership Committee” also includes more than one identified “parent” cannot cure its lack of multiple “teachers,” multiple WTU “representatives” and multiple “students.” Instead of establishing a balanced panel made up of parents, students

² *See* Defendant’s Opposition to Plaintiffs’ Motion for a Temporary Restraining Order (“Def. Opp.”) at 2.

and teachers (including representatives of the WTU), as the express terms of Section 38-174(b)(1)(A) require, the Mayor has named only one teacher, one WTU representative, one student, and a handful of parents to her 14-member “Leadership Committee.” Together, those stakeholders specified in Section 38-174(b)(1)(A) do not even comprise a majority of the Committee’s members, much less the entirety of the purported “review panel.” A committee that is not at least predominantly composed of parents, students and teachers (including WTU representatives) cannot be deemed to comply with the D.C. Code provision mandating “a review panel of teachers, including representatives of the Washington Teachers Union, parents, and students.”

5. In addition, although WTU President Davis nominated several teachers for the review panel, they were not included on the Committee. This failing is significant because, as the statute recognizes, the review panel requires the input of both WTU representatives *and* active teachers to function as intended. Those respective stakeholder categories and roles are complementary yet distinct: teachers nominated by WTU would speak for the 5,000 members of the WTU-represented collective bargaining unit, not just for themselves. And yet the Mayor apparently rejected WTU’s nominees. As noted above, the statute expressly requires that beyond considering the “opinions and recommendations” provided by the review panel, the Mayor shall “give great weight to any recommendations” of the WTU. D.C. Code § 38-174(b)(2). This has clearly not occurred.

6. There is significant and public injury to DCPS stakeholders and DC citizens when the Mayor fails to comply with the law governing the Chancellor selection panel. WTU President Davis served on the previous panel established by Mayor Bowser to select the previous DCPS Chancellor, Antwan Wilson, in 2016. President Davis and other panel members were appalled by

the deficient process in that selection. When Mayor Bowser convened the 2016 panel for its last meeting, panel members expected that they would be given resumes of finalists to consider. Instead, they were thanked for their service, given just one resume, and taken into another room to be introduced to the individual the mayor had selected. President Davis and her colleagues were shocked at the manifest disregard of their statutory role. If the Mayor is permitted in this round to continue treating the review panel and the law that created it with such disregard, then DCPS teachers, parents and students will continue to have little faith that their input is being sought and considered.

7. Finally, WTU emphasizes that no one is as affected by the qualities of the DCPS Chancellor—and no one else is as dependent on the actions of the Chancellor—as are teachers (including WTU representatives), parents, and students. The evident purpose of the statutorily prescribed “review panel” is to hear from a healthy representation of those affected groups, enough to represent the range of experiences and backgrounds that parents, students and teachers have in this diverse city, encompassing many different Wards and neighborhood schools. Only a review panel constituted as Section 38-174(b)(1)(A) requires can adequately represent those statutorily designated stakeholders in advising the Mayor about a prospective Chancellor. A “Leadership Committee” including one student, one teacher, and a smattering of parents makes a mockery of the intent of the law.

CONCLUSION

The points noted above underscore why the Mayor should be instructed to comply with the D.C. Code, which requires her to establish a review panel consisting of certain identified stakeholders—parents, students, teachers and representatives of the Washington Teachers’ Union. Based on the arguments presented by the Plaintiffs, and the amicus input of WTU, this

Court should grant the requested preliminary injunctive relief.

Dated: September 13, 2018

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2018, the foregoing Amicus Statement of Washington Teachers' Union in Support of Plaintiffs' Request for Preliminary Injunction was electronically filed and served via the Court's electronic filing system on the following:

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