



This matter was heard on October 18, 1988 upon the appeal to the Commissioner of Education by Mr. and Mrs. R. William C from a decision of the Scituate School Committee in accordance with §16-39-2 of the General Laws of Rhode Island, as amended. The matter was heard by the undersigned Hearing Officer under authorization from the Commissioner.

Due notice was given to the parties of the time and place of the hearing. Respondent was represented by counsel and the appellants appeared pro se. Testimony was taken, a transcript of which was made and evidence was presented. In addition, the parties together with the Hearing Officer made a visual observation of the area in question on October 27, 1988.

Respondent raised a preliminary issue of whether or not the Commissioner has jurisdiction to hear cases relative to school bus scheduling and bus routing. Respondent argues that Chapter 584 of the Public Laws of Rhode Island of 1988, as it affects and amends §16-60-6 of the Rhode Island General Laws, has taken away from the Commissioner of Education the power to certify school bus routes and schedules and the only responsibility the Commissioner now has is to "recommend to the Regents from time to time matters relative to the transportation of students to school". Respondent further argues that the legislation now states "This act amends §16-60-6(f) leaving school bus scheduling and bus routing in the hands of the local school districts". Respondent argues that if this legislation does not completely take away the power



corner of Deerfield Drive and Trimtown Road approximately 1608 feet (3/10 mile) from her home.

4. The appellants made a request to the School Committee to relocate the bus stop to a point somewhere on Deerfield Drive.
5. The appellants allege that the present designated bus stop for J presents a safety concern for her.
6. The appellants allege that their daughter is required to cross Trimtown Road in the morning in order to board the bus.
7. At a meeting of the School Committee held on September 6, 1988, the Committee voted to deny the appellants' request.
8. By letter dated September 12 to Mr. and Mrs. C, the Superintendent informed them of the Committee's denial of their request and stated the direction that their daughter should follow in the morning relative to boarding the school bus.
9. In a letter dated September 14, the C appealed to the Commissioner of Education.

Issue to be Decided

Has the School Committee acted in accordance with current statutes, regulations and School Committee policy in the transportation design for

1] The location of the present bus stop is marked with an X on diagram Appendix A.

J to and from the North Scituate Elementary School?

Applicable State Laws and Regulations.

16-21-1. Transportation of public and private school pupils. -- The school committee of any town shall provide suitable transportation to and from school for pupils . . . of elementary and high school grades. . . who reside so far from the . . . school which the pupil attends as to make the pupil's attendance at school impractical. . .

31-20-10.3. School bus stops - routes. -- . . . (b) No school bus shall stop to discharge or pick up passengers at any location which would require a child/ren to cross any road where the posted speed limit is greater than thirty-five (35) miles per hour. School bus stops shall be developed in a manner which assures that the bus stop will be on the child/ren home side of the road so that the child/ren do/es not have to cross the road to board the bus or to reach home. (d) All school bus routes shall be reviewed by the local police chief of each city and town for safety hazards within ninety (90) days before the start of the school year.

31-20-10.4. Exemptions from discharge requirements of 31-20-10.3. -- Rural communities are exempted from the provisions of §31-20-10.3(b) when:

- (a) A school bus is turning 180 degrees on a road,
- (b) A school bus is backing up on a road, or
- (c) A school bus is stopping on a road of low traffic flow.

For purposes of this section, "rural community" shall mean . . . the town of . . . Scituate. . .

For purposes of this section, "low traffic flow" shall mean any road designated as a road with low traffic by the state traffic commission.

Rules and Regulations for School Bus Transportation. Effective September 30, 1986.

Section 6.0 - Regulations for School Committees

Section 6.0 - School Bus Monitors

Each school committee shall provide a bus monitor sixteen (16) years or older on all school-bound and home-bound bus routes for grades kindergarten through grade five (5), unless a variance has been obtained from the Department of Education.

The appellants contend that the bus stop (Deerfield Drive and Trimtown Road) designated for their daughter's transportation presents a safety hazard, since in the morning she is required to cross Trimtown Road in order to board the bus on her way to school. They claim that the requirement for their daughter to wait for the bus in the morning at the corner of Deerfield Drive and Trimtown Road also presents a safety hazard because (1) she must wait in the road because there are no sidewalks, (2) both sides of Deerfield Drive at the corner are overgrown with brush and shrubbery, and (3) in the winter, snow is piled up on both sides of Deerfield Drive and Trimtown Road. They contend that the brush and shrubbery and the piles of snow prevent traffic turning into Deerfield Drive from seeing their daughter until the last possible moment.

The appellants contend that the relocation of the bus stop to somewhere along Deerfield Drive would substantially increase the safety for J and would not present a safety hazard for any other children or for the school bus. They admit that Trimtown Road is a posted 25 mile per hour road, however, they allege that the speed limit is not enforced. In support of their position, the appellants cite §16-21-1 of the General Laws of Rhode Island, particularly with regard to health and safety.

The School Committee contends that to relocate the bus stop to the location proposed by the appellants would increase the danger to J and the other pupils on the school bus, because it would require the bus to enter Trimtown Road in a position that would place it broadside to on-

coming traffic for a considerable period of time. The Superintendent testified that the Chief of Police has ruled that the bus stop at Deerfield Drive and Trimtown Road presents no safety problem.<sup>2</sup> The Superintendent also testified that the distance from the appellants' home to the bus stop is 1608 feet or 3/10ths of a mile, well within the 1/2 mile walking limit for elementary pupils prescribed by School Committee Policy 3414-3415 and 3416.<sup>3</sup> He further testified that the school bus which transports the appellants' daughter (bus 15) picks up pupils in the morning on the West side of Trimtown Road and on the return in the afternoon, drops them off on the East side of Trimtown Road. Thus, pupils picked up in the morning at the corner of Deerfield Drive and Trimtown Road must cross Trimtown Road to board the bus while pupils on the opposite side of Trimtown Road do not have to cross to board the bus. However, in the afternoon, the procedure is reversed and J is not required to cross Trimtown Road on her way home. Respondent also testified that in the morning the monitor stands in the middle of Trimtown Road at the corner of Deerfield Drive and crosses the children only after the bus driver announces on the public address system for the children to cross.

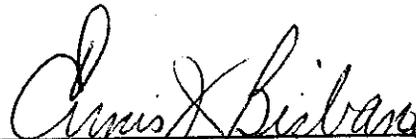
Based on the testimony and evidence presented and as a result of our personal observation of the actual bus route, it is our opinion that the present transportation design for the appellants' daughter passes

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2] See Respondent's Exhibit 10.

3] See Respondent's Exhibit 7.

muster with regard to statutes, regulations and policies relating to school bus transportation, and, accordingly the appeal is denied. However, this Hearing Officer did observe vehicles traveling on Trimtown Road in excess of the posted speed limit of 25 miles per hour. Therefore, the School Committee is directed to work cooperatively with the appellants in an attempt to get the Police Department to enforce the speed limit on Trimtown Road particularly during those periods of the day when school buses are transporting children to and from school; to get the brush and shrubbery trimmed on both sides of Deerfield Drive; and to confer with the Department of Public Works relative to the piling up of snow at the corner of Deerfield and Trimtown Road.



Ennis J. Bisbano  
Hearing Officer

Approved:



J. Troy Earhart  
Commissioner of Education

November 29, 1988