

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

DONALD N.

vs.

BARRINGTON
SCHOOL COMMITTEE

D E C I S I O N

April 5, 1989

This matter was heard on October 27, 1988 upon an appeal by Donald N from an action of the Barrington School Committee. The hearing was conducted under the provisions of §16-39-2 and §16-21.1-5 of the Rhode Island General Laws. Witnesses were sworn, testimony taken with cross-examination, and briefs filed.

Issue of the Case

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Does the transportation plan of the Barrington School Department comply with the requirements of R.I.G.L. §16-21.1-1, et seq.?

Facts of the case

1. Mr. N 's son attends LaSalle Academy in Providence.
2. LaSalle Academy is a school in Region III eligible to have its pupils transported at public expense to and from school under §16-21.1-1 and §16-21.1-2 by the Barrington School Committee.
3. There are essentially three ways of transporting eligible pupils. They are:

1) providing leased bus service from a private contractor,

2) providing cooperative bus arrangements with the Bristol and Warren school districts,

1] While no formal written "plan" was presented at the hearing, testimony was given and all parties verified several different modes of transportation which the Barrington School Committee is utilizing to bus pupils to regionalized schools. The transcript and briefs detail the modes. Such evidence equates with a "plan" or administrative actions which combine to form a plan.

- 3) providing bus tokens for the use of public transportation on Rhode Island Public Transit Authority buses.
4. Mr. N 's son is assigned by the Barrington School Committee to utilize the public transportation system (RIPTA) with tokens provided in advance.

Applicable Law

§16-2-18. Selection of teachers and superintendent-General Control of Schools-Expenses.- . . .the entire care, control, and management of all the public school interests of the several towns, shall be vested in the school committee of the several towns, and they shall also draw all orders for the payment of their expenses; provided, however, that such expenses shall not in any fiscal year exceed the total of all revenue appropriated by the state or town or otherwise for the public schools under the care, control and management of the school committee. . . .

§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 attending public and private schools of elementary and high school grades, except such private schools as are operated for profit, who reside so far from the public or private school which the pupil attends as to make the pupil's regular attendance at school impractical and for any pupil whose regular attendance would otherwise be impracticable on account of physical disability or infirmity.

§16-21.1-1. General purposes.- This chapter shall be construed and applied to create a state plan for the busing of pupils beyond city or town limits, in recognition of the legislative policy to encourage the establishment of and continuance of consolidated and regional schools, to provide a unified statewide busing service. . . to afford bus transportation to pupils who attend non-public non-profit schools which are consolidated, regionalized or otherwise established to serve residents of a specific area within the state, and who may be counted for purposes of reimbursement to cities and towns under the state aid formula provided by

§16-7-22, et seq., to conserve valuable natural resources by reducing the number of vehicles necessary to transport pupils to school, and . . . to protect the health, safety and welfare of pupils who live at such distances from the schools which they attend as to make it impractical or hazardous to require the pupil to walk to school.

§16-21.1-2. School bus districts established. - There are hereby established school bus districts within the state to provide bus transportation in the interest of public safety, health and welfare for pupils in grades kindergarten through grade twelve (12), . . . and non-public non-profit schools which are consolidated, regionalized or otherwise established to serve residents of a specific area within the state which schools satisfy the requirements of law for any of the grades of school, kindergarten through grade twelve (12) as follows:

Region III The towns of Lincoln, Smithfield, Johnston, North Providence, Barrington, Warren and Bristol and the cities of Cranston, Central Falls, East Providence, Pawtucket and Providence.

A pupil attending a school, including a public school, vocational school, special education program provided in accord with regulations of the Rhode Island state board of regents for education, a consolidated school established under the provisions of §16-10-1, et seq., a regional school established under the provisions of §16-3-1, et seq., as authorized by §16-3.1-1, et seq., or a non-public non-profit school kindergarten through grade twelve (12), consolidated, regionalized or otherwise established to serve residents of a specific area within the state for any of the grades of schools, kindergarten through grade twelve(12), in the interest of public safety, health and welfare, shall be provided with bus transportation to the school or facility which the pupil attends, within the region in which the pupil resides, by the school committee of the city or town within which the pupil resides.

§16-21.1-4. Duties of school committees. - It shall be the duty of the respective school committees of the city or town to provide the bus transportation required by this chapter either by the use of its own bus facilities and personnel or by contract. School committees may enter into such contracts as they shall deem necessary in order to accomplish the requirements of this chapter, and may enter into cooperative agreements with the other school committees for the purpose of conforming to the requirements of this chapter.

Summary of Argument

Mr. N argues that "(t)he transportation plan presently being utilized in no way can be said to be reasonable or address the requirements that the Department transport pupils to regional schools so as to encourage their continued use."

The plaintiff cited evidence of different modes being used for different pupils attending different schools. The plaintiff admits that two differing possibilities exist for students traveling to LaSalle Academy.

In essence the plaintiff objects to the methods utilized to transport his son and argues that the School Committee has utilized an economic argument for not setting up a separate bus to LaSalle Academy and that causes the "plan" to be not "reasonable." Particularly, the plaintiff argues that the morning arrangements ". . . are inadequate, time consuming, subject to unforeseen delays (not of the pupil's making) and will result in the pupils being late to school on an unacceptable number of occasions." (PB p.4).

The plaintiff further argues that the intent of the Legislature is clear, i.e., ". . . encourage the establishment of and continuance of consolidated and regional schools, to provide a unified statewide busing service. . . ." and the plaintiff concludes that ". . . this hodge podge . . ." (PB p.6) does not meet that intent.

The Barrington School Committee argues that the statutory scheme is satisfied by the plan and that the Committee has considered all factors called for by law; i.e., safety, distance, cost, etc.. The Committee

further argues that the requirement of R.I.G.L. §16-2-18 ". . . entire care, control and management of all the public school interests of the several towns, shall be vested in the school committee" gives weight to their argument that the Committee has the right and duty to develop its own plan for meeting its statutory obligations.

The Committee argues that the utilization of the RIPTA system is allowed under §16-21.1-4 and has been supported by the Commissioner in the past.

In the case at hand we are not dealing with a young child or a student who is being furnished transportation under the special education regulations. We are also not dealing with a student covered by the school bus monitor law. (G.L. 16-21-1(b)). Furthermore, we make no observation about the applicability of the school bus marking law (G.L. 31-20-11) to this case since the issue was not raised. This is an issue which is properly before the Department of Transportation. A copy of this decision will be forwarded to the Department of Transportation. We note that G.L. 31-22-10 (Regulation as to school buses) speaks in terms of "vehicles primarily used for the transportation of children to and from schools. . . ." (Emphasis added.)

Conclusion

In this case, the plaintiff offered no proof that the Committee had abused its discretionary power to manage the schools nor has he demonstrated that the Committee has violated any law.

We believe that the law allows for the use of the RIPTA system.

The law states at G.L. §16-21.1-4 that the school committee shall ". . . either by the use of its own bus facilities and personnel or by contract. School committees may enter into such contracts as they shall deem necessary in order to accomplish the requirements of this chapter. . .". When the Committee purchases tokens for the use of RIPTA and gives them to parents for pupils use, the Committee has entered into a contract with RIPTA to provide transportation for that school system for the pupil utilizing the bus and the token(s). As early as August of 1937, the then Commissioner of Education secured from the Attorney General of Rhode Island an interpretation of P.L. 1937, Chap. 2506, as follows:

The matter of suitable transportation is a mandatory legal requirement and must be furnished wherever necessary in the same manner as school maintenance, books, supplies, instruction, etc.

By suitable transportation is meant either the furnishing of a suitable conveyance or the furnishing of sufficient funds to allow transportation for the pupil through means of a suitable conveyance.

Barrington has complied with its duty to provide public transportation as defined by the State Legislature. The use of RIPTA tokens meets a school committee's statutory obligation to provide suitable transportation to students.

In Concerned Parents in the City of Woonsocket vs. Woonsocket School Committee, (1981), the Commissioner stated that RIPTA buses could be used when the Committee shows a well-formulated plan and pays for such use: ". . . will be occasions when a school committee

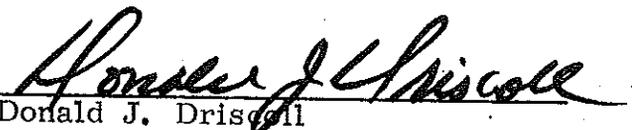
could properly use such buses to fulfill, in whole or in part, its transportation obligations." (p. 3).

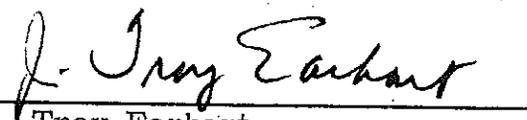
In Adams vs. Newport School Committee, (1982), the Commissioner stated that the paying for the use of public transportation for school purposes". . . would not be inconsistent with the mandate of §16-21-1."

Although the two cases cited above involved §16-21-1, we determine that the same applies to §16-21.1-1, et seq..

Barrington has satisfied its requirement to provide Mr. N 's son with a mode of transportation to LaSalle Academy. There is no doubt that the requirements of health and safety have been met as well as considerations of convenience in terms of time and distance. There are no limits to the human imagination in devising methods or modes for the delivery of services. There are, however, very practical limits in the determination of public policy in the area of available funds to pay for competing demands for service. A school committee must devise reasonable "plans" to execute its statutory obligations. In this case, we find that Barrington has a reasonable "plan" for the transportation of pupils to LaSalle Academy in Providence.

Accordingly, the appeal is denied.


Donald J. Driscoll
Hearing Officer


J. Troy Earhart
Commissioner

Approved:

April 5, 1989