

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

RHODE ISLAND
DEPARTMENT OF EDUCATION

vs.

WEST WARWICK
SCHOOL DEPARTMENT
(BUS MONITORS)

D E C I S I O N

July 14, 1989

This case is practically identical with three other cases recently decided by the Commissioner of Education.

The exhibits placed into evidence by the Department demonstrate that the School District is not in compliance with the school bus monitor law. (G.L.16-21-1 (b)). The School District in fact does not dispute this point. The District simply contends that it has made strenuous efforts to comply with the law and that it's efforts have not met with success. The District also contends that the school bus monitor law may be costly to implement, that it is extremely difficult to find people willing to serve as school bus monitors, and that the legislation may not be good policy. Arguments of this nature, of course, must be addressed to the General Assembly and not to us.

The legislative power of this State is vested in the General Assembly. Article VI of the Rhode Island Constitution. The Rhode Island Constitution particularly provides that "it shall be the duty of the General Assembly to promote public schools. . . and to adopt all means which it may deem necessary and proper to secure to the people the advantages and opportunities of Article XII Education. . . ." In accordance with its general and particular authority the General Assembly has enacted the school bus monitor law (G.L.16-21-1(b) which reads as follows:

16-21-1. Transportation of public and private school pupils. * * * * *

(b) for transportation provided to children enrolled in grades kindergarten through five (5) school bus monitors, other than the school bus driver, shall be required on all school bound and home bound

routes. Variances to the requirement for a school bus monitor may be granted by the commissioner of elementary and secondary education if he or she finds that an alternative plan provides substantially equivalent safety for children. For the purposes of this section a school bus monitor shall mean any person sixteen (16) years of age or older.

It is axiomatic that the School Committee must comply with the law. We further note on this point that while school committees may not be state agencies, they are agents of the state. Cumming v. Gooden, 119 R.I. 325, 377 A.2d 1071 (1977). "School committees act merely as agents of the state in fulfilling their statutorily conferred duties." Brown vs. Elston, 445 A.2d 279 (R.I.) School committees may not avoid their statutory obligations. Brown vs. Elston, supra.

In sum, it is clear that as a matter of law West Warwick must comply with the school bus monitor law.

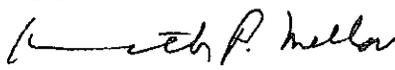
Conclusion

The West Warwick School Committee is in violation of G.L. 16-21-1(b).

Remedy

The School Committee will submit a corrective action plan to the Commissioner of Education no later than August 10, 1989. Ms. Eloise Boyer is appointed Special Visitor to monitor the preparation of the plan. If a suitable plan is not submitted to ensure compliance for the 1989-1990 school year, sanctions will be imposed to require compliance.

Approved:



for J. Troy Earhart
Commissioner of Education
July 14, 1989



Forrest L. Avila, Esq.
Hearing Officer