

The petitioner is appealing a decision of the Barrington School Committee not to furnish her daughter, who attends St. Mary Academy-Bay View in East Providence, Rhode Island, with transportation at the close of school on early dismissal days at the Academy. Instead, the School District picks the student up at the regular dismissal time. The student, therefore, has to wait several hours in the school building under the supervision of school personnel until her bus arrives.

The student in this case is receiving transportation under the state's Cross-District Regional School Busing law (G.L. 16-21.1-1 et seq.) In deciding this case we must be mindful of the fact that two of the key purposes of this law are "to provide a unified state-wide busing service" and "to conserve valuable natural resources by reducing the number of vehicles necessary to transport pupils to school". We also must be aware of the fact that the Circuit Court of Appeals has pointed out that if Rhode Island's cross-district busing law were construed in a way which caused the relative transportation costs for public and non-public school students to fail to remain "roughly proportional", Rhode Island's cross-district busing law might violate constitutional standards.

Jamestown School Comm. v. Schmidt, 699 F.2d 1 (1st Cir.), cert. denied, 464 U.S. 851, 104 S.Ct. 162, 78 L.Ed.2d 148 (1983). We, therefore, do not construe this statute to establish a "taxi service" obligating a school district to provide transportation in accordance with every particular detail of the individual calendars of each non-public school within

the transportation region which the school district serves. At the same time we do not think that a school district would be justified in imposing a procrustean rule limiting the availability of cross-district busing to the days when the individual public school systems is in session. Since there are from 4 to 12 school districts, each perhaps with its own school calendar, in each transportation region, any such rule would only serve to defeat the legislative purpose of establishing "a unified state-wide busing service". (G.L.16-21.1-1).

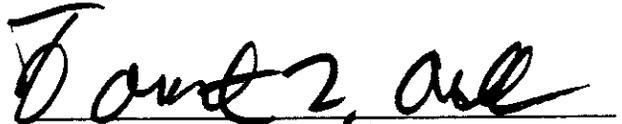
In the case at hand the Superintendent of Schools testified that if Barrington were to adopt a policy of providing transportation on early release days, it would be necessary for the School District to provide an additional bus. This is because the buses that the District now has would not have time to make an early pick-up and then return to the other schools to make pick-ups at the regular time. In addition, it should be noted that the other non-public schools in the transportation region also have early release days and that these days do not seem to coincide with each other. (This would be a very different case if all, or most, of the schools receiving transportation had common early release days).

The petitioner contends that some other school districts in the region do seem to be able to accommodate the Academy's early release days. This, however, does not change the fact that Barrington would not be able to make such an accommodation without hiring an extra school bus. (Testimony of Superintendent of Schools).

Given the facts of this case, we think that requiring Barrington to provide the type of transportation which has been requested here would not fulfill the statutory mandate to allow non-public school students to participate equally in a unified system of transportation, but rather would amount to an overly particular "catering" to the individual scheduling decision of one non-public school at general public expense. We do not think that such a policy is permissible under the statute. We hasten to point out, however, that in this case we are dealing with a situation where additional funds would have to be expended to make an early pick-up. We are not dealing with a case where an early pick-up would not entail any additional expense.

Conclusion

The petitioner's appeal is denied and dismissed.


Forrest L. Avila, Esq.
Hearing Officer

Approved:

for 
J. Troy Earhart
Commissioner of Education

July 19, 1989