



This matter was heard on July 13, 1989 upon the appeal to the Commissioner of Education of Mr. and Mrs. Roland S. from a decision of the North Smithfield School Committee under the provisions of §16-39-2 of the General Laws of Rhode Island.<sup>1</sup>

The appellants appeared pro se and the School Committee was represented by counsel. Testimony was taken and oral argument presented. This decision is a de novo decision based upon examination and cross-examination of evidence presented by both parties.

1. Mr. and Mrs. S.'s children are students at the Halliwell School - - one in the 5th grade (9 years old) and the other in the 6th grade (11 years old).
2. The School Department assigned the children at the beginning of the school year to a bus stop in front of their house at the driveway.
3. On or about April 4, 1989 the assigned pick-up point was changed to the end of the S. property (187') away from the driveway entrance to a "paper" road.<sup>2</sup>
4. The S.'s feel that the new stop presents a safety concern for their children.
5. The appellants complained to the School Department in April

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1] It will be recalled that the Supreme Court of Rhode Island has explicitly indicated that safety is a proper subject of inquiry in disputes about school transportation. Brown v. Elston, 445 A.2d, 279, 283 (R.I. 1982)

2] "Paper" road: an undeveloped road with a barrier approximately 20' in preventing vehicle travel. Marks in the sand indicate that vehicles use it to turn around. Grass, etc. would indicate that it is not a frequent occurrence.

and requested a return of the pick-up for their children in front of their own house.

6. Mr. Robert Mayo, Transportation Director for the School Department, reviewed the route and did not change the pick-up point.
7. The S.'s were not satisfied with the Superintendent's decision and they appealed to the School Committee.
8. The appellants petitioned the School Committee stating their case.
9. On April 12, 1989 the Committee considered their petition and refused their request.
10. In a letter received June 13, 1989, the appellants appealed to the Commissioner of Education.

#### Issue of the Case

Based upon the safety factor, has the School Committee acted in accordance with law and policy in changing the designated pick-up point for the children to get on and off the school bus?

#### Applicable State Law

The law of the State of Rhode Island which is pertinent in this particular case is cited below:

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 regular attendance at school impractical. . . .

Summary of Argument

Mr. and Mrs. S. argue that the changed bus stop designated for their children's school transportation represents a safety hazard since the children are required to walk along a state road without sidewalks and with dangerous traffic.

The School Committee argues that it has created a school bus stop which meets the requirements of the law, and that it has made its decision on a non-discriminatory basis; it has reviewed its decision and that these items, combined with its practices for distance and safety, fulfill its obligations in this case.

Conclusion

The School Committee has created a bus stop for the children's use to travel to and from school.

Unrefuted testimony was presented that the stop is 187 ft. from the former stop and requires the children to walk along Route 7 at a maximum of 190 ft. The road speed is controlled as 40 MPH by a traffic control device (a speed sign).

The arguments of a safety hazard while walking and while standing in the entrance to the "paper road" waiting for the bus were refuted by the School Committee in that the Administration conducted an on-site evaluation and deemed both situations to be lacking in substance. The Transportation Director testified as to the determinations of safety and distance by the School Department. The S.'s testified as to their perception of road hazards and personal safety of their children.

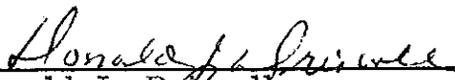
The appeal of the S.'s from a decision of the North Smithfield School Committee is denied.

The distance from the house to the bus stop is within the practices adopted by the School Committee for its transportation system. The Committee has met the requirements of the law ". . . shall provide suitable transportation to and from school for pupils. . .who reside so far as to make the pupil's regular attendance at school impractical . . . . "

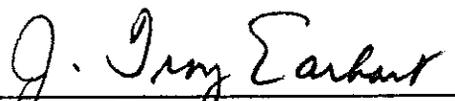
The design and operation of the transportation system is discretionary within the law in its implementation and the School Committee has demonstrated criteria for the development and execution of a "suitable" system and has demonstrated a reasonable response to public concern. In the instant case, the parents offered no proof of a "safety hazard" sufficient to contradict the plan.

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<sup>3]</sup> However, testimony revealed certain weaknesses in the process; therefore, the School Committee should develop procedures for parent notification, standards for establishing safety judgments; i. e., using the police and fire rescue personnel, and complaint procedures which would reduce the tension surrounding these issues and facilitate resolution.

  
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Donald J. Driscoll  
Hearing Officer

Approved:

  
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J. Troy Earhart  
Commissioner of Education

August 28, 1989