

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

SANDRA C , et al :
 :
 :
vs. :
 :
EXETER-WEST GREENWICH :
REGIONAL SCHOOL COMMITTEE :

D E C I S I O N

April 13, 1990

This matter was heard on February 7, 1990 upon the appeal to the Commissioner of Education by Sandra C from a decision of the Exeter-West Greenwich Regional School Committee denying her request for transportation of her son, B , to the West Bay Christian Academy located in North Kingstown, Rhode Island.

The matter was heard by the undersigned Hearing Officer under authorization from the Commissioner, who has jurisdiction to hear the appeal by virtue of §16-21.1-5 of the General Laws of Rhode Island, as Amended.

Due notice was given to the parties as to the date, time and place of the hearing. The School Committee was represented by counsel, the appellant appeared pro se. Testimony was taken, a transcript of which was made and evidence was presented. Upon the testimony so taken and the evidence presented, we find the following:

1. Sandra C and her son B reside at Stony Lane, Exeter, Rhode Island.
2. The appellant's son is a kindergarten pupil at the West Bay Christian Academy.
3. The appellant requested transportation for her son to the West Bay Christian Academy in accordance with §16-21.1-1 and §16-21.1-2 of the Rhode Island
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General Laws.
4. The Exeter-West Greenwich School Committee, at its meeting of September 12, 1989, denied the appel-

1] See Appellant's Ex. A-3.

lant's request to transport B as well as other kindergarten students to West Bay Christian Academy.²

5. By letter dated January 8, 1990, the appellant appealed the decision of the School Committee to the Commissioner of Education.³

Mrs. C testified that her son B is a kindergarten pupil at the West Bay Christian Academy. She stated that the Academy is a regional school within the definition contained in §16-21.1-2 and is located in the Quidnessett section of North Kingstown, in Region #4 which services the county of Washington and the towns of Jamestown and West Greenwich. She testified that both North Kingstown, where the school is located, and Exeter, which is where she resides, are in Region #4. She further testified that her request is to transport B from her residence in Exeter to the West Bay Christian Academy in North Kingstown. Mr. David C. Greenhalgh, the principal of West Bay Christian Academy, testified that the School is incorporated and is located in North Kingstown. He further testified that due to increased enrollment, it was necessary to find an additional facility to accommodate the two kindergarten classes until such time as they can be returned to the North Kingstown facility. He stated that the nearest facility that they could find was on Frenchtown Road in East Greenwich. According to Mr. Greenhalgh, there are two (2) teachers and two (2) all day kindergarten classes located in the facility in

2] See Appellant's Ex. A-5.

3] See Appellant's Ex. #1.

East Greenwich, but that all administration, registration, meetings and record-keeping takes place at the North Kingstown facility. He also testified that it is the school's intention to return the kindergarten classes to North Kingstown possibly as early as next year. He further testified that the children who attend kindergarten and live in Region #4 are shuttled back and forth daily from North Kingstown to East Greenwich and vice-versa. According to Mr. Greenhalgh, many of the kindergarten pupils take part in extended day activities which are provided at the North Kingstown facility at the close of the normal school day.

The School Department argues that the kindergarten facility is located outside of Region #4, in the town of East Greenwich, and, therefore, under §16-21.1-2, the Exeter-West Greenwich School Committee is not required by law to provide transportation for the appellant's son. Respondent also argues that if the appellant is seeking a variance under §16-21.1-3, that section of the statute has been declared to be unconstitutional because any decisions that would be required of the Commissioner in connection with that section would produce an excessive entanglement of church and state.

Mrs. C argues that she is not seeking a variance but is seeking transportation for her son B only from her home in Exeter to the "school" in North Kingstown and that the West Bay Christian Academy would provide transportation for B from North Kingstown to East Greenwich in the morning and from East Greenwich to North Kingstown in the afternoon.

The School Committee argues that in effect what is in existence are two (2) schools⁴ one at Quidnessett in North Kingstown and one on Frenchtown Road in East Greenwich. Respondent argues further that they are only required to provide transportation for the appellant's son to the school which he attends if it is in Region #4 and the "school" he attends is outside of Region #4. Therefore, respondent argues that they are not required to provide transportation.

Mrs. C argues that the School Committee is taking a very narrow interpretation of the terms "attend" and "school", only for the purpose of finding some way to avoid providing some transportation. She further argues that the Frenchtown Road kindergarten facility is not a school but only a classroom which would not exist without Quidnessett. The School Committee finally argues that a similar case was recently brought before the Commissioner of Education in January, which involves the West Bay Christian Academy and the Charho Regional School Committee, and that a decision in that case is eminent.

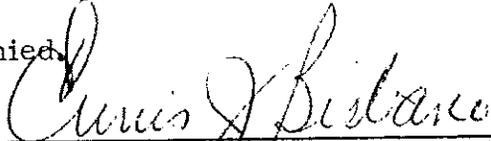
In the instant case, appellant is requesting transportation from Exeter in Region #4 to North Kingstown, also in Region #4. But we are convinced by the argument proffered by respondent when it states that what is really in effect in this case is the existence of two "schools", one at Quidnessett located in North Kingstown which houses grades one through eight and one at Frenchtown Road in East Greenwich which houses kindergarten classes. Section 16-21.1-2 states "A pupil attending a school

4] Emphasis added by Hearing Officer.

. . . shall be provided with bus transportation to the school or facility which the pupil attends, within the region in which the pupil resides. . .". The "school of facility" which the appellant's son attends is located in East Greenwich which is located in Region #2. The appellant lives in Exeter, which is located in Region #4. Therefore, in accordance with §16-21.1-2, the Exeter-West Greenwich School Committee is not required to provide transportation for the appellant's son.

We agree with the Hearing Officer in Holbrook vs. Chariho School Committee, April 1990, when he states "the West Bay Christian Academy cannot have it both ways. The schools are clearly separate entities and for the purposes envisioned under §16-21.1-1, et seq." To rule otherwise would encourage regional non-public schools to locate schools or facilities throughout the state under a single incorporation and expect to have pupils transported to a single facility from which they would shuttle to the other schools or facilities. This was definitely not the intent of the General Assembly when they enacted §16-21.1-1 and §16-21.1-2. See also: Chaves v. School Committee of Middletown, 211 A.2d 639 (R.I. 1965). While the Chaves case predates the regionalization law, the present case is just a "regionalization version" of the Chaves case which we think still controls the point since the applicable statute (G.L.16-21.1-2) still speaks in terms of the particular school which the student "attends".

Accordingly, the appeal is denied.



Ennis J. Bisbano, Hearing Officer

Approved:

April 13, 1990



J. Troy Earhart
Commissioner of Education