

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

K

VS.

NORTH KINGSTOWN
SCHOOL COMMITTEE

DECISION

Held:

School Committee, in the absence of a showing of cost or inconvenience, must provide transportation to students given an attendance zone waiver.

March 23, 1992

Travel of the Case

This matter was originally heard by Forrest L. Avila who rendered a decision on December 9, 1991. According to that decision (a copy of which is attached hereto as Appendix A) this case was to be reheard to determine:

whether granting 'space available' transportation to the petitioner, or those similarly situated to the petitioner would cost the School District extra money or cause logistical inconvenience. (Avila decision p.2)

On February 10, 1992 this matter was reheard by the undersigned hearing officer upon designation by Commissioner Peter McWalters. Transcript of the hearing was received on February 19, 1992 and the record of the case closed as of that date.

Findings of Relevant Facts

o Transporting the appellant's daughter and those similarly situated on a "space available" basis would not cost the North Kingstown School District extra money or cause logistical inconvenience.

Decision

Mr. Edwin A. Nordstrom, a member of the North Kingstown School Committee, testified concerning the Committee's policy on permitting students to attend school out of the district of their residence, and the reasonableness of the conditions attached to such permission. While Mr. Nordstrom voiced concern about extending the transportation obligations of the district to those who had received permission to attend "out-of-district" ¹ most of his testimony centered on the cost and inconvenience to the school district which would result from a requirement to bus children across attendance districts, to reroute buses or to add buses to accommodate additional passengers. The commissioner's prior decision addressed only intra-district, space available transportation. No re-routing of buses is called for by the appellant's situation or those similarly situated to her.

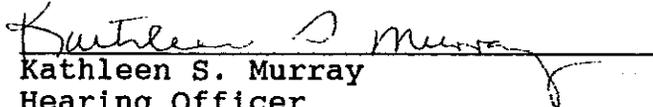
Although we understand the school district's reluctance to open the door to exceptions to a district-wide policy ² the School Committee has not proven that any additional cost or inconvenience would be occasioned by the type of exception called for by the Commissioner's decision of December 9, 1991. That decision focuses our inquiry as to cost or inconvenience for transportation provided to out-of-district students only when there is space available and only when the bus to the child's school³ is already

1) to attend a school in North Kingstown other than the school determined by the child's residence.

2) Or as Mr. Nordstrom described it "It's the old once the camel gets his nose under the tent, he's in." (Tr. p. 14).

routed down the street of the day-care provider. The only effort the school district must make when these conditions have been met is to add any additional stops to the already-existing route. No evidence was presented that in making the exceptions called for, under such limited circumstances, that the length of any child's bus ride would be inordinately lengthened.

Thus, in accordance with the prior decision in this matter, the appeal is sustained, and the School Committee is directed to provide "space available" transportation to the appellant's daughter and those similarly situated.


Kathleen S. Murray
Hearing Officer

Approved:


Peter McWalters
Commissioner of Education

3) Reference to the fact that the grandmother's house is right on the "appropriate" school bus route (p. 1 of the decision) must mean that the buses going by are destined for K ---'s school.

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COMMISSIONER OF EDUCATION

_____ :
K. :
 :
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vs. :
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NORTH KINGSTOWN :
SCHOOL COMMITTEE :
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_____ :

DECISION

December 9, 1991

Held: School Committee will be required to show a rational basis for denying transportation to a student to whom it has granted an attendance zone waiver.

The petitioner in this case obtained an attendance zone waiver from the School Committee which allowed her child to attend school in the school attendance zone which serves the area where the child's grandmother lives. The grandmother provides before and after school day care to the child. The School Committee has a policy that, while it will grant attendance zone waivers to parents for child care reasons, it will in such cases not provide transportation to and from the home of the day care provider. We note here that the record before us seems to support the conclusion that, in this particular case, the provision of the transportation requested would not cost money or cause logistical problems since the grandmother's house is right on the appropriate school bus route and the buses that go by are not filled to capacity.

It is, of course, state policy to encourage the provision of school transportation to and from the premises of licensed day care providers (Sec. 45-49-4). We think that the public policy thus expressed, however, is equally applicable, in a general sense to situations where a grandmother or other relative is providing child care. Still the fact remains that for even licensed day care providers the School District is not required to provide such services but is only encouraged to provide them. Our General Assembly has thus recognized that while it would be desirable to encourage day care transportation cost factors and logistical consideration make it impossible at this time to impose a further general mandate that such transportation be provided to and from the premises of day care providers.

Still we understand the point that the petitioner is making. She is saying: "If it would cost the School District no extra time or money to transport my son why not provide the transportation?" Of course the problem the School District may have with this is that it may not wish to get involved in developing and administering a formula to determine which citizen is to get the special grant of free "space available" transportation. It may also have concerns about whether "space available" transportation might cause problems for other students by inor-

dinately lengthening the school bus ride. There is no evidence on the record on any of these issues.

Perhaps the School District did not develop these points because it believed that Pratt vs. Chariho Regional High School District, Commissioner of Education, 1988, was entirely dispositive of the question presented. In Pratt, supra, we found that the School District was not arbitrary in denying an attendance zone variance for child care reasons since the denial was grounded in sound policy and logistical considerations. In the present case we have no evidence on the record to show whether finances, policy or logistics provide a grounds for denying the transportation requested. Still, we think it would be contrary to the public interest to grant petitioner's request for transportation without giving the School District a chance to demonstrate the reason for its decision. This is particularly the case when a line of inquiry was prompted by a question posed by a Hearing Officer in an effort to compile a full and fair record in a matter involving a pro se petitioner.

We will rehear this matter to determine whether granting "space available" transportation to the petitioner, or those similarly situated to the petitioner, would cost the School District extra money or cause logistical inconvenience. If it would cost the School District extra money or cause inconvenience we would have to sustain the School Committee's decision to deny transportation. If, however, it would cost nothing to provide the transportation and would, in fact, occasion no inconvenience or infringe no substantial policy consideration we would have to reverse the denial of transportation as being arbitrary and unreasonable.

Conclusion

This matter will be reheard on Wednesday, January 8, 1992 at 10:00 a.m.

Approved:


Janice M. Baker
Interim Commissioner
December 9, 1991


Forrest L. Avila, Esq.
Hearing Officer