

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

GLENN AND DEBRA S , FRANK AND DENISE
B , KEVIN AND LESLIE C ET AL.

VS.

COVENTRY SCHOOL COMMITTEE

RULING ON REQUEST FOR CLARIFICATION

On November 2, 1993, we issued a decision in this matter.

By letter dated November 22, 1993, the Coventry School Committee requested that a hearing be conducted "for the purpose of providing greater clarification to the meaning and intent of the Commissioner's statement" in the decision that "the School Committee must provide transportation to Appellants' children in first and second grades who must walk along Hopkins Hill Road on their way to or from Hopkins Hill Elementary School."

Pursuant to the School Committee's request, a hearing was held on December 15, 1993.

At the hearing the School Committee sought clarification of the November 2, 1993 decision by submitting six specific questions to the hearing officer. Appellants also sought clarification of the decision at the hearing.

The questions submitted by the parties, and our responses to those questions, are as follows:

School Committee

1. Does this Decision mean that an appellant's first or second grade child living on Hopkins Hill Road must be picked up at their door to avoid walking along Hopkins Hill Road to reach a bus stop or crosswalk?

On pages 6-7 of our decision, we stated that "it is not practical for Appellants' children in the first and second grades to walk along Hopkins Hill Road. We therefore hold that the School Committee must provide transportation to any of Appellants' children in the first or second grade who must walk any distance on Hopkins Hill Road on their way to and from Hopkins Hill School." Consequently, Appellants' first or second grade children cannot walk along Hopkins Hill Road to reach a bus stop or crosswalk. The School Committee must provide transportation to and from the child's residence if the child must otherwise walk along Hopkins Hill Road.

2. Does this Decision prohibit the Coventry Public Schools from requiring appellants' first and second grade child(ren) to walk to school if, to do so, the child(ren) would be expected to walk a distance of as few as 15 feet on a Hopkins Hill Road sidewalk to reach the nearest crosswalk?"

As set forth in #1, the School Committee must provide transportation to any of Appellants' children in the first or second grade who must walk any distance along Hopkins Hill Road. The decision therefore prohibits the Public Schools from requiring Appellants' first and second grade children to walk to school if, to do so, the children must walk any distance along Hopkins Hill Road.

3. Does this Decision give recognition to the fact that, to avoid requiring a child to walk 264 feet on a Hopkins Hill Road sidewalk, the child could, instead thereof, be required to walk 1100 feet on an alternate route, without sidewalk, to reach a crosswalk?

In a proceeding before the Commissioner of Education, a "fact" is established by the introduction of competent evidence into the record. With regard to the scenario presented in this question, we found on pages 5-7 of our decision that it is safe for pedestrians to safely walk in the area in dispute except for Appellants' first and second grade children who must walk along Hopkins Hill Road. These children could therefore be required to walk alternate routes in the area in dispute, provided that they do not walk any distance along Hopkins Hill Road and the alternate routes remain within the school district's permissible walking distances to school.

4. Does this Decision give recognition to the fact that there are first and second grade children walking on Hopkins Hill Road on the East side in compliance with the School District recommended walking route and in fact, walking in some cases further distances than would be required of most living on the West side (appellants' side)?

Again, "facts" are established by the introduction of competent evidence into the record. As for the scenario presented in this question, the walking routes of students who are not parties to this appeal are not dispositive of the question of whether it is practical for Appellants' children to walk to school.

5. Does this Decision recognize that in the name of equity and the use of good judgment, that it would be considered equally unsafe (Commissioner's determination) to expect children to walk on one side of the road but not the other? In fact, does not a decision to totally prohibit walking of first and second graders on the West side spell the same for the East side?

In performing the statutory duty to "decide such controversies as may be appealed to him or her from decisions of local school committees," [R.I.G.L. 16-60-6(9)(h)], the Commissioner of Education rendered a decision in this matter which constitutes his resolution of the particular issues raised by the appeal filed by Appellants. Issues beyond the scope of the appeal herein will be resolved if, and when, an appeal pursuant to R.I.G.L. 16-60-6(9)(h) is filed raising those issues.

6. Does this Decision mean that first and second graders living on or near roads throughout Coventry and the State of Rhode Island, with traffic conditions equal to or greater than those of Hopkins Hill Road, cannot be expected to safely traverse such roadways and thusly, require transportation services?

Decisions of the Commissioner of Education serve as precedent for future cases. Each case is decided on the basis of its particular facts. If precedent is applied correctly, cases with similar facts will have similar results.

Appellants

1. Do the warning lights on the barrels used on Hopkins Hill Road have to be flashing?

The decision states that "barrels with warning lights" are a permissible traffic device. The language "with warning lights" is not superfluous and it is therefore expected that the lights are in operation.

2. Is the hearing officer aware that a 7-year old child, such as the one involved in the Kolc v. Maratta case, can be in the third grade?

The decision classifies Appellants' children by grade level, not age.

The responses set forth above constitute our ruling on the request for clarification.

Paul E. Pontarelli

Paul E. Pontarelli
Hearing Officer

Approved:

Peter McWalters

Peter McWalters
Commissioner of Education

Date: April 6, 1994