

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

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MR. AND MRS. THOMAS MARSHALL, SR. ET AL.

VS.

BURRILLVILLE SCHOOL COMMITTEE  
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DECISION

Held: Pursuant to R.I.G.L. 16-21-1,  
School Committee must provide  
resident children with transpor-  
tation to private school on days  
when teacher training and parent-  
teacher conferences are being  
conducted in the public schools.

Date: June 1, 1994

## Introduction

This matter concerns an appeal by Mr. and Mrs. Thomas Marshall, Sr., Mr. and Mrs. Russell Jette, and Mr. and Mrs. Angelo Chiovitti regarding the Burrillville School Department's failure to provide resident children with transportation to a Burrillville private school on days in which teacher training or parent-teacher conferences are conducted in the Burrillville public schools.<sup>1</sup>

For the reasons set forth below, we sustain the appeal.

## Background

Appellants reside in Burrillville. Their children attend the Father Holland Catholic Regional Elementary School, which is located in Burrillville. The Burrillville School Department has provided Appellants' children with transportation to and from the Father Holland School during the 1993-1994 school year except on days when public-school students are not required to attend school because teacher training or parent-teacher conferences are being conducted.

The record also shows that on the training and conference days at issue, the School Department provides transportation to other Burrillville children who attend private schools outside of the town, but within the school bus region established by statute.<sup>2</sup>

In accordance with Board of Regents' regulations,<sup>3</sup> Burrillville's training and conference days count toward the 180-day minimum

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1 This appeal was assigned to the undersigned hearing officer and heard on February 1, 1994. The record closed on February 8, 1994.

2 In providing for the busing of pupils beyond city or town limits, R.I.G.L. 16-21.1-2 sets forth 5 school bus districts. Region I consists of Burrillville, North Smithfield, Cumberland, and Woonsocket.

3 Regulation G-4.3.

school year required of all cities and towns by R.I.G.L. 16-2-2(a).

### Contentions of the Parties

Appellants contend that the School Department has a statutory obligation to provide transportation to resident children who would otherwise find it impractical to attend Father Holland School. Appellants assert that this statutory obligation is intended to protect the health and safety of all Burrillville students. Appellants argue that the Commissioner's decision in Morenon vs. Providence School Board (January 4, 1994) is controlling, and they question the School Department's provision of transportation to students attending private regional schools outside the town of Burrillville on the days it refuses to transport their children to the Father Holland School in Burrillville.

The School Committee states that transportation was denied to Appellants' children on the days at issue after the superintendent of schools spoke to the Department of Education's Office of Legal Counsel. According to the School Committee, legal counsel for the Department was of the opinion that transporting children to the Father Holland School on the days in question "could present a problem, and would be providing a benefit that was not provided to the public school children." [Transcript, p. 7]. This "benefit" to Father Holland School students was described at the hearing as receiving bus transportation on a day when Burrillville public-school students are not transported to school.

### Discussion

R.I.G.L. 16-21-1(a) states that

The school committee of any town shall provide suitable transportation to and from school for

pupils attending public or private schools of elementary and high school grades, except such private schools as are operated for profit, who reside so far from the public or private school which the pupil attends as to make the pupil's regular attendance at school impractical and for any pupil whose regular attendance would otherwise be impracticable on account of physical disability or infirmity.

The state's compulsory attendance law (R.I.G.L. 16-19-1 et seq.) requires every child to "regularly attend some public day school" or to attend "for the required period of time a private day school approved by the commissioner . . ."

In the case of Morenon vs. Providence School Board, which was decided after the filing of this appeal, the Commissioner held that the school board was required under R.I.G.L. 16-21.1-1 to transport Providence children to a nonsectarian East Providence private school on required days of attendance during the school year regardless of whether public school students were attending school on that particular day. The Commissioner found in Morenon that "the overriding purpose of R.I.G.L. 16-21.1-1 is to protect the health and safety of all Rhode Island students, whether they attend public or private schools." (Decision, p. 6). The Commissioner also reviewed the United States Court of Appeals' decision in Members of the Jamestown School Committee v. Schmidt,<sup>4</sup> and found that the school board must

provide for Appellants' children what it provides for its public-school students -- suitable transportation to their schools if it is otherwise impractical for them to attend, and transportation on the days their schools are required to be in session. (Decision, pp. 6-7).

We find that R.I.G.L. 16-21-1 is similarly designed to protect

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4 699 F.2d 1 (1983).

the health and safety of all Rhode Island students. We therefore hold, consistent with the Morenon case, that the School Committee must provide Appellants' children with transportation to the Father Holland School on the days the School is required to be in session, including those days in which teacher training and parent-teacher conferences are conducted in the Burrillville public schools.<sup>5</sup> In so holding, we rely on Members of the Jamestown School Committee v. Schmidt, particularly the Court's statement that "Whether busing is within a district or across district lines, public and parochial students must be eligible for busing to their schools on the same terms . . ."<sup>6</sup> Thus, just as Burrillville public school students who need transportation to attend school are entitled to that transportation every day they are required to be in school, Appellants' children needing transportation to attend the Father Holland School are similarly entitled to that transportation every day "for the required period of time" needed to satisfy the compulsory attendance law.

The appeal is therefore sustained, and we order the School Committee to provide transportation to Appellants' children on the public-school teacher training and parent-teacher conference days.

#### Conclusion

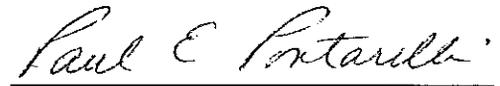
The Burrillville School Committee is required under R.I.G.L. 16-21-1 to provide Appellants' children with transportation to and from the Father Holland Catholic Regional Elementary School on days

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5 We note that the days for which Appellants are seeking transportation to the Father Holland School are "school days" in Burrillville.

6 699 F.2d at 9 (1983) (emphasis in original).

in which teacher training and parent-teacher conferences are being conducted in the Burrillville public schools.

  
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Paul E. Pontarelli  
Hearing Officer

Approved:

  
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Peter McWalters  
Commissioner of Education

Date: June 1, 1994