

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

KEITH P.

VS.

CHARIHO REGIONAL SCHOOL COMMITTEE

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DECISION

Held: School Committee must provide 7-year-old student with school transportation to and from his home.

Date: September 1, 1995

Introduction

This matter concerns an appeal by Keith P. from the Chariho Regional School Committee's decision not to create a school bus stop¹ for his son at the family's home.

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

Background

Appellant's 7-year-old son resides with his family at Switch Road in Richmond. He is about to enter the third grade. A dispute arose last year when Appellant's son was assigned to a bus stop at Switch Road, about 600 feet north of the family home.

Switch Road is a two-lane road in a rural residential area. It has a 25 mile-per-hour speed limit. There are no sidewalks on the part of Switch Road in question. On the east side of Switch Road, where Appellant's home and the assigned bus stop are located, a white line is painted about 17 inches from the edge of the pavement. A dirt shoulder of varying widths extends from the pavement, at an incline. The surface of the shoulder is largely soft dirt and sand, and therefore somewhat slippery. The shoulder becomes extremely narrow about halfway between and Switch Road due to the placement of three mailboxes and some shrubbery. Tire marks were evident in the dirt at the edge of the shoulder in this particular area.

Richmond Chief of Police Raymond Driscoll visited the disputed area at Appellant's request in December 1994. Chief Driscoll noted

1 The appeal was referred to the undersigned hearing officer by the Commissioner of Education. A hearing was conducted on August 8, 1995. The hearing officer viewed the road in question on that date as well. The record in this proceeding closed on August 17, 1995.

the "very limited" soft and hard shoulders beside the road, [Transcript, p. 12], and he stated that in the winter when snow is banked on the side of the road there is no shoulder to walk on. Chief Driscoll further testified that the speed limit on Switch Road is generally exceeded, and that the Police Department receives many complaints about speeding on Switch Road, particularly in the morning.²

Ms. Pamela Bitgood is the terminal manager for Laidlaw Transportation, which provides school transportation for the Regional School Committee. Ms. Bitgood, who has extensive experience in the operation and administration of bus transportation services, was of the opinion that the close proximity of bus stops at and Switch Road would create safety risks for both students and motorists in the area. Ms. Bitgood based her opinion on the short distance in which the bus driver has to operate the flashing warning lights, and the tendency of motorists to pass stopped buses as soon as their red lights are shut off. She also testified that the pickup and dropoff times for Appellant's son fall outside the heavy morning and afternoon traffic.³ Ms. Bitgood acknowledged that there are two bus stops within 600 feet of each other at another location in the school district.

Contentions of the Parties

Appellant contends that it is too dangerous for a 7-year-old child to walk on the narrow shoulder of Switch Road with his back to morning rush-hour traffic which is travelling in excess of the speed

2 Chief Driscoll stated that he periodically assigns a patrolman to operate radar on Switch Road and that one morning 17 speeding tickets were issued in a little over an hour.

3 The Chariho Regional High School, Middle School, and Area Career & Technical Center are located further north on Switch Road.

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limit. Appellant requests that a bus stop be added at their address at Switch Road.

The School Committee contends that the legitimate concerns expressed by Appellant with regard to the safety of his son are outweighed by the hazards that would be created for many other students and motorists if Appellant's request is granted and a school bus is required to make two stops within 600 feet on Switch Road.

Discussion

Under R.I.G.L. 16-21-1, school committees have an obligation to provide "suitable transportation to and from school for pupils attending public schools of elementary and high school grades who reside so far from any public school as to make their regular attendance at school impracticable . . ." The Rhode Island Supreme Court has stated that the purpose of R.I.G.L. 16-21-1 "is to encourage school attendance and to protect the health, safety and welfare of the pupil." Chaves v. School Committee of Middletown, 211 A.2d 639, 641 (1965).

We find, given the particular road and traffic conditions presented by this case, that it is not practical or safe for a 7-year-old child to walk along the stretch of Switch Road in question. In the morning, Appellant's son must walk on a somewhat slippery, inclined shoulder of a well-traveled road with his back to oncoming traffic which generally exceeds the speed limit. Portions of the shoulder are narrow, and at one point by the mailboxes it is difficult to avoid going onto the road. Furthermore, as noted by the chief of police,

4 Appellant cites R.I.G.L. 31-18-11(a) which requires pedestrians to walk on the left hand side of any road without sidewalks when practicable.

there would not be any shoulder to walk on in the winter following the plowing of any significant amount of snow. Given the evidence regarding the amount and speed of traffic on Switch Road, we do not find it to be safe for a 7 year old to be walking on the road itself.

We find the School Committee's concerns in this matter to be entirely credible. We believe, however, that the school bus warning light system can be operated in the space of 600 feet. We suggest in this regard that Appellant's son be picked up and dropped off at the southernmost boundary of Appellant's property in order to maximize the distance between stops. As for the motorists' failure to honor the flashing lights and/or to engage in the careless passing of the school bus, we expect the School Committee to take appropriate steps to ensure the involvement of the local police department so that traffic ordinances are enforced and safe travel conditions for students and motorists alike are maintained.

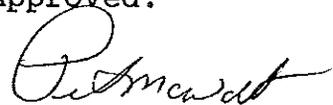
Conclusion

Given the existing road and traffic conditions, it is not safe for a 7-year-old child to walk to and from his home on Switch Road in Richmond to his assigned bus stop at Switch Road. The School Committee shall provide school transportation to this child to and from his home.



Paul E. Pontarelli
Hearing Officer

Approved:



Peter McWalters
Commissioner of Education

Date: September 1, 1995