



## Introduction

This matter concerns an appeal by Mrs. Haroldine K. from the Burrillville School Committee's refusal to relocate her daughter's bus stop.<sup>1</sup>

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

## Background

Appellant's daughter is 6 years old and in the first grade. She resides with her parents in a house located on the west side of Wallum Lake Road in Burrillville.

Appellant's daughter received transportation to and from her home while attending kindergarten last year. For the 1995-1996 school year, she was assigned a bus stop located at her next-door neighbor's driveway, approximately 150 feet to the south on the same side of Wallum Lake Road. Three other children were assigned to this stop as well.

Wallum Lake Road is a rural two-lane road. The posted speed limit near Appellant's home is 40 miles per hour. There are no sidewalks in the area at issue. There is a solid white line on the side of the road about three and a half feet from the edge of the pavement. A culvert adjoins the pavement. There is a curve in the road just north of Appellant's home, and a passing zone for south-bound traffic extends from Appellant's home past the assigned bus stop.

The bus pick-up time for Appellant's daughter is about 8:00 a.m.

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1 The undersigned hearing officer was designated to hear and decide this appeal. A hearing was held on March 8, 1996, at which time the hearing officer viewed the area in question. A second viewing was conducted on April 1, 1996. The record in this matter closed on April 16, 1996.

The drop-off time is between 3:45 and 4:00 p.m. At these times the bus stops on the east side of Wallum Lake Road, where a bus monitor assists the children on and off the bus and across the road.

There is an increase in traffic in the area at issue at the drop-off time due to a 3:30 p.m. shift change at Zambarano Hospital, which is located further north on Wallum Lake Road.

#### Positions of the Parties

Appellant contends that it is not safe for a 6-year-old to walk along or cross Wallum Lake Road given the existing road and traffic conditions. Appellant asserts that the volume of traffic on the road at pick-up and, particularly, drop-off times is heavy, that the traffic travels in excess of the 40-mile-per-hour speed limit, and that there is no place to walk other than in the road when snow is plowed onto the shoulder of the road. Appellant also argues that the current practice of stopping the bus on the opposite side of Wallum Lake Road violates Rhode Island General Law 31-20-10.3. Appellant requests that her daughter receive transportation to and from her home and that the bus pick her daughter up and drop her off on the side of the road on which her home is located.

The School Committee contends that, given the curve in the road just north of Appellant's home, motorists and schoolchildren alike are safer if the number of bus stops in this area is limited and the bus stops on the east side of the road. In this regard, the Committee presented testimony concerning the time and distance needed to properly operate the bus' warning lights, and the visibility problems posed by the curve. While door-to-door stops are made to accommodate kindergarten children, the Committee believes that

multiple stops so close together just below the curve on Appellant's side of the road will create hazardous traffic conditions and jeopardize safety. The School Committee also asserts that Appellant's next-door neighbor plows a path in the snow in his yard to the assigned bus stop. The Committee further argues that the town of Burrillville, as a rural community, is exempted from the provisions of R.I.G.L. 31-20-10.3.

Discussion

R.I.G.L. 31-20-10.3(b) states as follows:

No school bus shall stop to discharge or pick up passengers at any location which would require a child to cross any road where the posted speed limit is greater than thirty-five miles per hour (35 mph). School bus stops shall be developed in such a manner which assures that the bus stop will be on the child's home side of the road so that the child does not have to cross the road to board the bus or to reach home.

According to R.I.G.L. 31-20-10.4,

(a) Rural communities are exempted from the provisions of 31-20-10.3(b) when:

- (1) A school bus is turning one hundred and eighty degrees (180) on a road; or
- (2) A school bus is backing up on a road; or
- (3) A school bus is stopping on a road of low traffic flow.

(b) For purposes of this section, "rural community" shall mean any community in which there is a regionalized school district and the towns of Burrillville, Scituate, Little Compton, and New Shoreham.

(c) For purposes of this section, "low traffic flow" shall mean any road designated as a road with low traffic flow by the state traffic commission.

We find that R.I.G.L. 31-20-10.3(b), read in its entirety,

prohibits the stopping of a school bus on the side of Wallum Lake Road opposite from Appellant's home. It is undisputed that the bus in question stops on the east side of Wallum Lake Road at a location where the posted speed limit is 40 miles per hour. This practice is not exempted under R.I.G.L. 31-20-10.4 because, although Burrillville is listed as a "rural community," none of the specific conditions for an exemption is applicable. The school bus does not turn or back up at the site, nor does the record show that the State Traffic Commission has designated Wallum Lake Road as a "road of low traffic flow." While the hearing officer's viewing of the site confirms the School Committee's concerns regarding diminished visibility of the school bus on the west side of Wallum Lake Road, we have even greater concerns regarding the visibility of schoolchildren and bus monitors as they cross the road. In any event, we find that state law specifically prohibits the school bus from stopping on the east side of Wallum Lake Road to pick up or discharge Appellant's daughter.

We further find that, given the age of Appellant's daughter, the volume and speed of the traffic, the lack of a sidewalk, the proximity of the curve in the road, and the absence of any guaranteed means to provide a protected area to walk when there is an accumulation of snow, it is not practical from a safety standpoint for Appellant's daughter to walk to and from her home to the assigned bus stop.<sup>2</sup> In so finding, we rely on the hearing officer's observations at the site,

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2 Because Appellant's neighbor is not obligated to clear a path in the snow to the bus stop, we cannot rely on this voluntary service in determining the practicality of Appellant's daughter walking to the bus stop.

including the substantial amount of traffic at the dropoff time, the speed in excess of the posted 40-mile-per-hour limit of much of that traffic, and the conditions that exist following a snowfall.

Conclusion

For the reasons set forth above, we conclude that the assigned bus stop is not in compliance with state law and impractical due to safety considerations. We therefore sustain the appeal and order the School Committee to provide bus transportation to Appellant's daughter to and from the home, with the bus stopping on the home side of Wallum Lake Road.<sup>3</sup>

  
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Paul E. Pontarelli  
Hearing Officer

  
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Peter McWalters  
Commissioner of Education

Date: June 13, 1996

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3 In Taboada vs. Hopkinton School Committee, June 27, 1985, the Commissioner directed that the bus stop for the appellants' 7-year-old daughter be relocated to the family residence from its assigned location approximately 120 feet away. In doing so, the Commissioner stated that "While the bus company understandably might prefer to avoid having to stop twice in the space of 120 feet, we are convinced that there is no other just way of resolving this controversy . . ." (page 5). We share that sentiment here as well.