

0040-97

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

PARENT OF JANE DOE
V.
NORTH KINGSTOWN
SCHOOL COMMITTEE

DECISION

Held: Matter must be remanded.

DATE: December 17, 1997

The petitioner in this case is requesting an interim order directing the North Kingstown School District to provide transportation over a private road to a licensed child care facility. School districts have the option to pick-up and drop off students at licensed childcare facilities in the course of providing school transportation, (G.L. 45-49-4). North Kingstown provides transportation to such facilities.

The problem in this case is that the facility is located down a private road. The school district is willing to drop this student off at the head of the road but it alleges that it would be illegal and unwise to operate a school bus on a private road. It also alleges that this private road is not safe for the passage of a school bus. The child's age and medical condition does not permit her to walk down the road. The child is not attending the facility as a result of an Individual Education Plan.

Before we decide the issue of whether Rhode Island law prohibits transportation over a private road or whether it allows for transportation over a private road open to the public we must know whether the owner of the road is willing to allow a school bus to enter the property. Even assuming, arguendo, that transportation down this private road would be permitted and lawful we must have an evaluation from the local police chief on the safety of the route. G.L. 31-20-10.3 (d)(e). The record before us also does not define the exact status of the road based upon Rhode Island law and official town documents.

This matter must be remanded to the North Kingstown School Committee to make an initial determination of these issues.

Conclusion

The request for an interim order is denied at this time and this matter is remanded to the North Kingstown School Committee.

Forrest L. Avila, Hearing Officer

Approved:

Peter McWalters, Commissioner

DATE: December 17, 1997