

STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

Re: **JENNIFER E ,**

VS.

CHARIHO REGIONAL SCHOOL COMMITTEE

DECISION

***Held: Present location of the bus stop
does pose an unreasonable risk to
Appellant's son.***

Dated: August 27, 1998

I. **INTRODUCTION**

This matter concerns an appeal from the Chariho Regional School Committee's decision not to change the location of the bus stop for Appellant's child.

The Commission of Education designated the undersigned Hearing Officer to hear and decide this appeal. The hearing was held on June 3, 1998. The Appellant was not represented by counsel however, the School Committee was represented by Attorney John E. Earle.

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

II. **BACKGROUND**

Appellant and her family reside at Tomaquag Road in the Town of Hopkinton, Rhode Island. Appellant's son, is a 7 year old 2nd grade student at the Chariho Elementary School.

Appellant's son has been bused for the last year by the Chariho Regional School District.

Last year the bus stop was located at Tomaquag Road but was moved closer to Appellant's house for the current year.

Last year (1996-1997) Appellant requested a bus stop change which was denied. She did not appeal that denial.

Again for the school year 1997-98 Appellant requested a change in the stop.

After notification that the bus stop would not be changed, Appellants appealed to the School Committee requesting that an additional bus stop be established at Appellant's home. That request was taken under advisement and after review by the School Committee's Sub-Committee on Transportation, and on recommendation to the full School Committee, the request was denied. It is from that denial that the Appellant files this appeal.

Appellant's Position

Appellant introduced a letter from John S. Scuncio, Chief of Police for the Town of Hopkinton, in support of her appeal. The letter essentially stated that the area poses a danger for small children who walked along Tomaquag Road.

Appellant testified as to the rural nature of Tomaquag Road. That it is a very narrow road only 14 feet wide. (Tp. P 5, 8). She noted the absence of sidewalks as well as breakdown lanes (Tp. P24)., She stated the speed limit is 25 miles per hour and despite signs to that effect and "slow children" signs vehicles have not adjusted their speed.

Appellant testified that the distance traveled by her son is not her concern. Her concern is that cars are required to turn three sharp curves between her home and her son's bus stop. (Tp. P4).

Appellant's contends that due to the nature of the road, the age of her son and the traffic in the area, having to walk to the designated buss stop poses an unreasonable risk of harm to her son.

Appellee's Position

Brian Stanley, Assistant Director of Administration and Finance for the Chariho Regional School District was presented by the School Committee. He testified that he was contacted by the Appellant twice requesting that an additional bus stop be created for his son. (Tp. P11). He stated that he examined the site and took into consideration all of the factors associated with establishment of bus stops and after consideration of Mrs. E request he denied it. Mr. Stanley concluded that the stop, some 1/10 of a mile from Mrs. E home, was a safe stop. Further, he stated that the stop at Tomaquag Road would require Mrs. E son to walk

1/10 of a miles to the bus stop as well as require another neighbor's child to walk 1/10 of a miles to the stop. He felt this arrangement to be the fairest. (Tp. P13).

Mr. Stanley testified that he and Lillian Hisey, branch manager for Laidlaw Chariho Regional Bus Terminal visited the area for an on-site inspection. (Tp. P15). After taking into account the physical characteristics of the roadway, the location of the E home, the route the child would have to walk and the age of the Appellant's son, the request for change was denied. (Tp. P16).

The School Committee's position is that it is the district's legal obligation to provide "suitable transportation" and it is impractical and impossible to provide door to door service to each and every student who is transported within the district. They contend that in view of all the factors considered and in balancing the interest of the School Committee's responsibility with the safety concerns of the student, the establishment of the present bus stop was the best practical solution. Mr. Stanley also introduced its evidence a schematic drawing of the bus stop area. (Respondent's A.)

The School Committee also presented the testimony of Lillian Hisey who is the branch manager for Laidlaw Chariho Regional Bus Terminal. She testified that it is her responsibility to set out bus routes and to schedule bus stops.

She stated that the majority of roads within the region are two lane country roads and that sidewalks are a rarity. (Tp. p18).

In determining where a school bus stop should be located, Mr. Hisey said the time a student spends on a bus being transported is one of a number of considerations to establishment of a stop.

She testified that the bus routes and stops were provided to the Chiefs of Police of the Chariho School District to wit: Charlestown, Richmond and Hopkinton at the beginning of the year and that she received no response from Hopkinton Chief Scuncio.

After due consideration of all the pertinent factors as well as an inspection of the area, Mrs. Hisey concluded that the bus stop as established did not pose a danger to Appellant's son. A schematic drawing of the area was introduced as Respondent's Exhibit A, P3.

III. DECISION

Rhode Island General Law 16-21-1 requires School Committees to provide "suitable transportation" to those students for whom it would be "impractical" to go back and forth to school on their own.¹

School committees are statutorily obligated to fund student transportation to encourage school attendance and to provide for the health, safety and welfare of the students. In determining whether or not it is practical for a student to walk to and from a bus stop several factors have to be taken under consideration. Those factors are the distance to be walked, the age of the student, and the existence of any road or traffic hazards. (See Brown v. Elston 445 A.2d

¹16-21-1. Transportation of public and private school pupils - (a) the school committee of any town shall provide suitable transportation to and from school for pupils attending public and 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.

(b) For transportation provided to children enrolled grades kindergarten through five (5), school bus monitors, other than the school bus driver, shall be required on all school bound and home bound routes. Variances to the requirement for a school bus monitor may be granted by the commissioner of elementary and secondary education if he or she finds that an alternative plan provides substantially equivalent safety for children. For the purposes of this section a school bus monitor should mean any person sixteen (16) years of age or older.

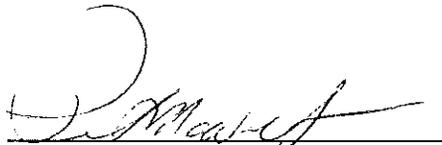
279 (1982).

The testimony is not in dispute that the area in question is a narrow country road 14 feet wide which winds and curves in the immediate area with no breakdown lanes nor sidewalks available to pedestrians. The testimony on the record is that the speed limit is regularly exceeded despite posted 25 M.P.H. signs as well as "slow children" signs.

Given the width of Tomaquag Road the lack of shoulders viewed in conjunction with the age of the E child, believe that the present bus stop creates an unreasonable risk to the safety and welfare of Appellant's child. For the reasons cited above the appeal is sustained.


WILLIAM C. CLIFTON
HEARING OFFICER

APPROVED:


PETER McWALTERS
COMMISSIONER OF EDUCATION

DATE: August 27, 1998