

STATE OF RHODE ISLAND
AND PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

Re: **FRED & WENDY M.**

VS.

CHARIHO REGIONAL SCHOOL COMMITTEE

DECISION

*Held: Present location of the bus stop
does not 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 Appellants 11 year old son.

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

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

II. **BACKGROUND**

Appellants reside at South County Trail in the Town of Richmond, Rhode Island. Appellants son is an 11 year old 6th grade student at the Chariho Middle School.

Appellants moved to their home in December 1997. At that time their son was picked up and dropped off at their driveway.

On December 2, 1997 the Appellants were advised that the bus stop for their son would be changed and that their son would be required to walk 1/10 of a mile to and from his bus stop. (See letter to Chariho School Committee).

After notification of the new stop Appellants requested a change from Brian Stanley, Assistant Director for Finance and Administration for the Chariho School District. After review by Mr. Stanley their request was denied. They subsequently appealed the denial to the Chariho School Committee. 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 Appellants files this appeal.

Appellants Position

The Appellants presented Raymond A. Driscoll, Chief of Police for the Town of Richmond, Rhode Island who read from a letter be sent to Mr. John Pini, Superintendent of Chariho School Department on December 11, 1997. In the letter written on behalf of Appellants as well as an adjacent neighbor Chief Driscoll described the rural nature of the area in question, the contour of the road, that the area in question is thickly wooded on a major 2 lane north-south highway with a posted speed limit of 45MPH. On either side of the road are hard shoulders approximately 8 feet wide. He testified further that each travel lane on the road is approximately 12 feet wide. Each travel lane on the roads, he stated, is approximately 12 feet wide. Chief Driscoll stated that the majority of roads within the Town of Richmond are rural in nature, and without sidewalks He opines that due to the nature contour and design of South County Trail, in the area of Appellants' home an additional bus stop should be established in the front of the M. home. (See Petitioner Exhibit 1).

The Appellant, Fred M. read from a joint statement pointing out their concerns for the safety of their son and describing how vehicular traffic on South County Trial near his home poses a hazard for their 11 year old son especially in the morning when his back is to the traffic.

On cross examination Mr. M. testified that he and his wife work full time but on different shifts. His work hours are from 3:30 p.m. to 12:00 midnight and Mrs. M. from 8:30 a.m. to 3:00 p.m. Mr. M. testified that their son is picked up at 6:45 a.m. and dropped off at 2:20 p.m.

Appellants also introduced into evidence a series of photographs (Exhibits 2(a) through 2(f)) which depict the area as well as traffic flow.

As a result of the bus stop changed their son would now have to walk approximately 1/10th of a mile to the new bus stop which was established in front of the middle house within a cluster of three houses.

He went on to say that in the morning his son has to face the traffic on his way to the bus stop and that the traffic is to his back in the afternoon. He testified further that at the time of pick up Mr. M. is at home and when his son is dropped off in the afternoon his wife is at home.

Lastly, Mr. M. testified that since the change in bus stops his son has not taken the bus to or from school but instead has been transported by him and his wife.

In summary, Mr. M. expressed concern for his son's safety in having to walk 1/10th of a mile to and from the bus stop and that he would like another stop established in front of his home.

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 Appellants in December of 1997 requesting that an additional bus stop be created for his son. 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 Mr. M. 's request denied it. Mr. Stanley concluded that by placing the bus stop at the middle home within the cluster, the Appellants' son as well as the other student living at the opposite end of the cluster would each have to walk approximately the same distance.

Appellee introduced into evidence Exhibit A a hand drawn schematic showing the placement of the bus stop in relation to the other homes.

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.

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 testified that the majority of roads within the region are two lane country roads and that sidewalks are a rarity.

In determining where a school bus stop should be located, Mr. Hisey said the bus company examines the ages of the students who are assigned to particular stops as well as looking at the walking distance for those assigned to the stop. After they have examined these criteria they then look to the Chariho School District's policy on students walking to school. The school district's policy for middle school students such as Appellant's son is a maximum of 3/4 of a mile (Tp. P61).

Ms. Hisey testified that she and Brian Stanley from the Chariho School Department physically inspected the site and after due consideration of all of the factors concluded that there would be no undue safety hazard for Appellant's son in using the assigned stop.

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. Easton 445 A.2d 279 (1982).

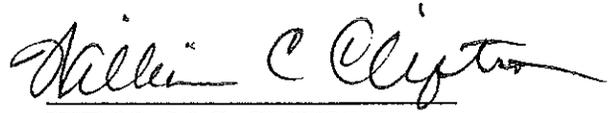
The testimony is not in dispute that the area in question is a major two lane rural highway which winds and curves in the immediate area with no sidewalks available to pedestrians. The testimony is also clear that in the cluster of three houses, the appellant lives in one of the houses on the end and that the bus stop was established at the middle house to allow Appellant’s son as well as another student on the opposite end of this cluster to be picked up and discharged at the middle house.

Given the width of South County Trail travel lanes and the 8 to 10 foot wide paved

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.

shoulders, the distance involved, viewed in conjunction with the age of the M. child, we do not believe that the present bus stop creates an unreasonable risk to the safety and welfare of Appellants child. For the reasons cited above the appeal is denied. -


WILLIAM C. CLIFTON
HEARING OFFICER

APPROVED:


PETER McWALTERS
COMMISSIONER OF EDUCATION

DATE: August 27, 1998