

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

KIM A.

VS.

**BRISTOL-WARREN REGIONAL
SCHOOL COMMITTEE**

INTERIM ORDER

Held: Student's school assignment is to
be maintained pending further
hearing.

August 31, 1999

Introduction

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Kim A is appealing the 1999-2000 school assignment for her son.

For the reasons set forth below, we shall enter an interim order maintaining last year's enrollment pending further hearing of this matter.

Background

Kim A's son is about to enter the second grade in the Bristol-Warren school system. He attended kindergarten at Hugh Cole School, and the first grade at Main Street School.

Prior to the completion of the 1998-99 school year, the Bristol-Warren Regional School Committee adopted school attendance zones for school assignment purposes.² The School Committee also adopted a policy that students could attend "out-of-zone" schools if there was space available and the parents provided transportation. The School Committee further resolved that, at the elementary level, where the contractual class size limit is 24 students, September enrollments would be limited to 22 students, if possible, in order to provide some flexibility for mid-year enrollments.

Appellant testified that as of the date of the hearing she had not received a copy of the attendance zones as delineated by the school district. She produced a copy of her son's final report card, which states that he "has been assigned to grade 2 at Main Street School." [Appellant's Exhibit 2]. The report card also names a specific teacher for the

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- 1 The Commissioner of Education designated the undersigned hearing officer to hear and decide this appeal. A hearing was conducted on August 27, 1999. Due to the fact that school is scheduled to begin on September 1, 1999, the hearing officer relied on his notes and the exhibits from the hearing in writing this decision.
 - 2 Previously, children residing in the town of Warren could be assigned to any one of the three elementary schools located in the town.

second grade at Main Street School.

Appellant received a letter dated August 13, 1999 from the school district which purports to provide “transportation information” to “Main Street School” for her son. [Joint Exhibit 1]. The letter does not contain such information, however. An attachment to the letter, entitled “Transportation Policy Guidelines,” includes the following provisions:

To the maximum extent feasible, pupil transportation is to be based on the neighborhood school concept and governed by well-defined transportation “zones” for each school.

Permission for a child to attend a school outside the established transportation “zone” will be granted with the following requirements:

1. Classroom space is available at the receiving school based on enrollment data the week prior to the start of school,
2. Transportation must be provided by the parent,
3. The parent agrees that permission may be revoked at any time, if space is no longer available in the receiving school.

Shortly after August 13th, Appellant received a letter stating that she was “inadvertently sent a notice of transportation which included times and bus stop information. Your child attends a school outside of the attendance zone for your home address. Transportation is not available to his/her (sic) school from that area.” [Joint Exhibit 2].

According to the school district, Hugh Cole School is the neighborhood school for Appellant’s son. On August 24, 1999, the school district informed Appellant that, as of the previous day, there were 22 and 23 students assigned, respectively, to the two second

grades at Main Street School. As a result, her son cannot attend Main Street School.

Space is available at the Child Street School if Appellant wishes to exercise the “out-of-zone” option.

Appellant wants her son to remain at Main Street School. She submitted a letter from the site manager of the health center at which her son receives counseling. According to the letter, one of the treatment goals for Appellant’s son is “to have consistency and continuity in his life.” [Appellant’s Exhibit 3]. The letter states that he has had several changes in his life, and that his father recently moved to Florida after divorcing his second wife. The letter further states that Appellant’s son “would be at less risk of behavioral problems and diminished night terrors if he were assigned to second grade at the same school.”

Positions of the Parties

Appellant contends that she has been led to believe that her son could remain at Main Street School through the third grade. She asserts that her son shares a sense of community with the School, and that given his father’s absence, it has come to serve in some ways as a supportive family to him. Citing his emotional and psychological needs, she argues that it is harmful to separate her son from his school at this late date.

3 These are the students for whom the Main Street School is the neighborhood school. Appellant questions the actual residency of some of these students.

4 The counselor was away on vacation at the time of the hearing.

5 Main Street School consists of grades one through three.

6 Appellant states that her son lost contact with her ex-husband’s extended family following the latter’s departure.

Appellant is willing to provide transportation and, noting that the contractual class size limits have not been reached at Main Street School, she contends that her request does not place any additional burdens on the district.

The School Committee contends that its newly-adopted school assignment and transportation policies are clear and fair. In adopting and implementing the policies the Committee has been guided by contractual requirements and legitimate fiscal concerns. It has provided reasonable exceptions to its policies where circumstances permit. Furthermore, Appellant's son could attend his neighborhood school, i.e., Hugh Cole, through grade 5.

Discussion

Given the exigency of this matter, it was not possible to conduct a full hearing on the merits. We find, however, that the equities of this case at this stage warrant the issuance of an interim order under R.I.G.L. 16-39-3.2 directing that the school assignment of Appellant's son be maintained pending further hearing. In so deciding, we rely on the statement in the final report card regarding the school assignment and teacher for Appellant's son for the 1999-2000 school year, the timing of the notice of change in the assignment, the psychological difficulties Appellant's son is experiencing, the current availability of space in the 2nd grade classes at Main Street School within the class-size limitation, and the absence of any transportation obligation to the district. We anticipate that these considerations, among others, may be explored in greater detail in further hearing. Pending such hearing, we find that the equities compel the maintenance of the status quo with regard to the enrollment of Appellant's son.

Conclusion

It is hereby ordered, on an interim basis, that Appellant's son be allowed to continue to attend Main Street School pending further hearing in this matter.

Appellant shall be responsible for her son's school transportation.

Paul E. Pontarelli
Hearing Officer

Approved:

Peter McWalters
Commissioner of Education

Date: August 31, 1999