

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

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Robert S.

v.

North Kingstown School Committee

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DECISION

Held: In this matter the parents of a North Kingstown student are appealing a decision of the North Kingstown school committee denying the provision of transportation to a student who is attending Quidnessett School on a space-available basis. Since we find no factor which might compel the school committee to provide transportation to this student to the Quidnessett School, the appeal must be denied and dismissed. The school committee is ordered, however, to immediately amend its policy manual to accurately reflect its present transportation policies.

DATE: September 3, 2003

Jurisdiction

This is a transportation case from North Kingstown. Jurisdiction is present under R.I.G.L. 16-39-1 and R.I.G.L. 16-39-2.

Travel of the Case

In this appeal the petitioners are the parents of a 10-year-old North Kingstown student who has been redistricted out of her old school—the Quidnessett School— and who has been placed in another school—the Fishing Cove School for 5th grade. The North Kingstown school committee, however, is willing to allow this student to continue to attend the Quidnessett School, on a space available basis, as long as she provides her own transportation. The parents appealed to the North Kingstown school committee claiming that the committee is obligated, under its own policy manual, to provide the student with transportation to the Quidnessett School. The committee has denied this appeal, and this matter is now before the commissioner of education.

Issue Presented

If the North Kingstown school committee gives a student the option to attend a school outside of the student's regular attendance zone does the committee also have to provide transportation to the optional school placement?

Position of the Parties

The Parents:

The parents contend that the daughter, an elementary school student, has, as a result of redistricting, been moved to three different schools during her short academic career. The parents argue that it would be more equitable for the school committee to allow their daughter to continue to attend the Quidnessett School with transportation provided. They also argue that the school committee's policy manual requires the provision of the transportation at issue. The Manual states: "Whenever possible, and where classroom space is available, fifth grade students will be given the choice to remain at their current school, with busing provided."¹

The School Committee

The School committee takes the position that the student has been in the Quidnessett School for the past three years, and that redistricting will have no

¹ Policy Manual—Paragraph 2. Tr. 15

greater impact on her than it will have on any other student. The committee recognizes that its policy manual calls for transportation to be provided to a student who is allowed to continue to attend a school on a space available basis as a result of redistricting. The committee submits, however, that its policy manual is more in the nature of a set of guidelines than an immutable document not subject to *ad hoc* revision by the school committee, as conditions warrant. The committee also points out that the policy as now written in the policy manual contains the phrase "Whenever possible." The committee submits that the busing structure it has had to adopt to implement the latest redistricting makes it not reasonably possible for the committee to provide this student with transportation to Quidnesset School.

Findings of Fact

1. The student in this case has been attending the Quidnessett Elementary School for the past three years.² In her first two years of schooling she attended a different school each year. As a result of the present redistricting she has been reassigned to the Fishing Cove School with appropriate transportation being provided. The North Kingstown school committee is also willing to allow this student to continue to attend the Quidnessett School, but it has decided that the present configuration of its school bus routes makes it impractical for the committee to provide this student with transportation to Quidnessett.³
2. The record shows that North Kingstown is subject to rapid changes in the distribution of its population. This has made school redistricting a frequent event in North Kingstown. To cope with this situation the school committee has adopted a policy manual that provides that if a student's attendance area changes, the student will still be allowed to attend his or her old school *on a space available basis* with transportation provided by the school committee.
3. In the latest round of redistricting, however, the school committee found that—while it could still allow attendance at the student's prior school on a space available basis—it could no longer go the extra mile and provide transportation to the student. This change in policy was the result of the latest redistricting plan that had the effect of arraying the school system's transportation system so that buses, for the most part, do not cross into each other's pick-up zones. In essence the bus routes are constructed in such a way that the town is divided into two more or less separate transportation areas with little intersection between them.

² Tr. 4

³ There may be some chance that busing could be provided during the morning run, but even if this transportation were to be provided it would not suffice to resolve this matter.

4. We do not have to delve into the minutia of how school bus routes are developed. However we will point out that school bus routing must take into account the age range of the students to be transported, the safety of pick-up points, and the opening and closing hours of the schools, and numerous other factors. For example, in North Kingstown bus routes must take into account the major reconstruction of the road system that is taking place there. It will suffice for present purposes to note that we find the North Kingstown has not abused its discretion in establishing its present school bus route system.

Discussion

Rhode Island law requires each school committee to create a policy manual and to keep it up to date.⁴ In our view this policy manual is meant to govern the day-to-day workings of the school system.⁵ In our view, however, this policy manual is essentially a legislative document that is subject to change, amendment, and repeal at the discretion of the school committee.⁶ We therefore see nothing legally impermissible in a school committee passing what amounts to special legislation to the effect that it will not be able to provide the range of transportation services previously allowed for in its policy manual. We therefore cannot accept the petitioners' argument that the school committee's policy manual obligates it to provide transportation in this case. We do agree however that the policy manual must be immediately corrected to reflect the committee's present policy.

In this case the Superintendent and the school committee concluded quickly that under the new redistricting plan the committee would not be able to provide transportation to students who elected to stay in their former schools, even though they had been redistricted into a new school. ["Dr. Halley has repeatedly stated at School Committee meetings on redistricting issues that this will not be possible during this reconfiguration"]⁷ This realization was shared publicly⁸ and at school committee meetings, as recorded in the minutes of the meetings.⁹ Everyone knew that to approve the redistricting plan as submitted entailed not being able to provide transportation services to students who opted to stay in their old schools on a space available basis. In our view as soon as the committee adopted the new redistricting plan and its associated busing schedule it became "impossible", in the practical sense of the word for the school committee to provide the petitioning student with bus transportation to the Quidnesset School.

⁴ R.I.G.L. 16-2-32

⁵ "The policy manuals will be a source used to govern each school system" (Emphasis added)

⁶ See: In re Opinion to the Senate, 275 A.2d 256, 108 R.I. 302 (1971)

⁷ Ex.2, Minutes of June 25, 2003

⁸ Ex. 7 Comments of the Superintendent on the new redistricting plan adopted on May 28, 2003

⁹ Tr. 35

At this point it might have been technically more correct to have revisited the school committee policy manual, as it pertained to the type of transportation at issue, and to have formally repealed or suspended the applicable rule. In reality the minutes of the meeting, however, amply demonstrate the amendment to the prior transportation policy of the school committee. We see the failure to immediately correct the policy manual to reflect the new state of affairs amounted to nothing more than a clerical error since the new policy was memorialized in the minutes of the school committee and fully reported to the public.

We further find that under Rhode Island law the school committee is obligated to provide transportation only to the school a child is properly assigned to in accordance with the attendance zones established by the school committee.¹⁰ The school committee is willing and able to provide this student with a free appropriate public education at the Fishing Cove School. It has therefore fulfilled its statutory obligation to this student.

We recognize that this very young student has had to change schools several times in the early course of her schooling. We also recognize that in cases involving frequent transfers of disadvantaged students we have acted to prevent changes that would have put these students at further risk.¹¹ None of these factors is present in this case. We therefore find no "equitable" factor which might compel the school committee to provide transportation to this student to the Quiddnessett School.

Conclusion

The appeal must be denied and dismissed. The school committee is ordered however to immediately amend its policy manual to accurately reflect its present transportation policies.

Forrest L. Avila, Hearing Officer

APPROVED:

Peter McWalters, Commissioner

September 3, 2003
Date

¹⁰ c.f. *Exeter-West Greenwich Regional School district v. Pontarelli*, 460 A.2d 934 (R.I. 1983)

¹¹ *Muggle, et al. v. Pawtucket School Committee, Board of Regents*, February 5, 1990