

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF  
EDUCATION

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**Michelle F.**  
**v.**  
**Woonsocket School Committee**

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**DECISION**

Held: This is an appeal from the decision of the Woonsocket School Committee to deny bus transportation to a student. After considering the relevant evidence submitted concerning the distance from school and hazards of the route, we sustain the decision of the school committee. The appeal is therefore denied and dismissed. We will, however, give petitioners leave to file an offer of proof – on the issue of hazards along the walking route – to be submitted within 30 days from the date of this decision. If this offer of proof contains solid evidence showing that the student would have to traverse inordinately dangerous ground to get to school, we would be prepared to reconsider this decision.

DATE: December 30, 2003

## Travel of the case

This is an appeal from the decision of the Woonsocket School Committee to deny bus transportation to a student. Jurisdiction is present under R.I.G.L. 16-39-1 and R.I.G.L. 16-39-2.

## Position of the Petitioning Parents

The petitioning parents contend that a Global Positioning Service Device (GPS) measurement shows that their daughter lives 2.3 miles from the school she attends. They therefore argue that since Woonsocket has established a 2.25-mile distance from school as the standard for the provision of transportation, their daughter should be bused to school. The parents also contend that, in any event, the route the student would walk is too hazardous to making walking practical.

## Position of the Respondent School Committee

The school committee contends that it uses a computerized system to measure walking distances and that an application of this system demonstrates that the petitioning student lives 1.99 miles from school—too close to school to be granted transportation under the committee's distance rule. The committee also contends that the route the student would have to walk to school is safe.

## Conclusions of Law

Rhode Island law requires school committees to provide students with transportation:

**R.I.G.L. 16-21-1. Transportation of public and private school pupils.** —(a) The school committee of any town or city shall provide suitable transportation to and from school for pupils attending public and private schools of elementary and high school grades...who reside so far from the public school or private school which the pupil attends as to make the pupil's regular attendance at school *impractical*....(Emphasis added)<sup>1</sup>

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<sup>1</sup> There is no federal constitutional right to school transportation. *Kadrmas v. Dickinson Public Schools*, 487 U.S. 450 (1988)

The Rhode Island Supreme Court has listed three factors to be used in deciding whether it is impractical for a student to walk to school:

- ⇒ *The age of the child*
- ⇒ *The distance walked*
- ⇒ *The hazards along the roadway.*

If these factors, separately or together, make it impractical for a student to walk to school, the school committee must provide transportation.<sup>2</sup>

While a school committee can have a general walking distance rule, this rule cannot be applied in cases where it would be impractical for a child to walk to school. In cases where it is impractical for a student to walk to school the school committee must provide transportation, in spite of its general walking distance rule.<sup>3</sup>

### **Findings of Fact**

1. The petitioning student in this case is 14 years old. She lives in Woonsocket. She attends Woonsocket High School. This student's father has used a Global Positioning Service Device (GPS) to calculate her walking distance to school. This device shows a walking distance of 2.3 miles to the school she attends. {Transcript, page 8}
2. In the present case the school committee of Woonsocket has set a general walking distance of 2.25 miles for its students. In calculating this distance the school committee has established as its standard measure the computerized distance measuring system used by the committee's transportation provider. [Transcript, page 33]
3. In calculating walking distance the program "follows curb to curb along the street. The computer uses a City of Woonsocket engineering department map, that's what they input the data with initially, that measures curb to curb following that map." [Transcript, page 34]
4. Use of this program establishes the petitioner's walking distance to school as amounting to 1.99 miles—substantially under the committee's 2.25 mile standard for providing transportation.[Transcript, page 34]
5. The Committee's transportation provider also used a taxicab with an odometer calibrated and sealed by the Rhode Island Department of transportation to measure the walking distance by taking an alternate route to school. This resulted in a walking distance of 2.19 miles. This odometer reading is said to be accurate to within 1/1000

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<sup>2</sup> *Brown v. Elston*, 445 A.2d 279 (R.I. 1982).

<sup>3</sup> *In the Matter of Student K.M.*, Commissioner of Education, October 26, 2000

of a mile. [Transcript, page 35] This measurement still fell short of the 2.25 required for the provision of transportation. [Transcript, page 35]

6. The route this student would use to walk to school would require her to walk through an urban environment, and to cross several busy streets. [Transcript, page 13, *et seq.*]
7. There is a conflict in the testimony concerning the hazards along the roadway that this student would experience in walking to school. [Transcript, page 13, *et seq.* (Testimony of Parent, Mr. F.)] [Transcript, page 37, *et seq.* (Testimony of William Legare)]

## **Discussion**

We conclude that since the school committee is entitled to establish a basic walking distance for its students it is also entitled to establish and apply a reasonable method of calculating this distance. That is to say that the walking distance adopted by the school committee is a matter of discretion—and so is the method of calculating this distance. The computerized calculation used by the committee to determine walking distance seems to be a reasonable and efficient way of deciding how far a student lives from school. We therefore sustain it. While a GPS device is one way of measuring a distance, the school committee is entitled to use its own method of making measurements so long as the method chosen is a reasonable one.

Petitioners' next argument is that it is impractical for their daughter to walk to school because the route she would have to walk would require her to cross busy streets and intersections. In our view, however, the route to be walked, while not ideal, is well within the capacity of a 14-year-old student to walk. The petitioners have also alleged that the route this student would have to walk would take her through neighborhoods that are dangerous. The testimony on this point, however, is largely conclusionary, without specific factual buttressing. Matters would be different if the petitioner had produced police testimony, police reports, or some other concrete evidence to document the dangerousness of the neighborhoods at issue. Absent such specific facts we are unable to find that the petitioners have carried their burden of proof on this issue.<sup>4</sup>

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<sup>4</sup> We will however give the petitioners leave to file an offer of proof on this issue within 30 days from the date of this decision. If this offer proof contains solid evidence showing that the student would have to traverse inordinately dangerous ground to get to school, we would be prepared to reconsider this decision.

## Conclusion

The appeal is denied and dismissed. However, in accordance with footnote 4 of this decision, the petitioners have leave to file an offer of proof concerning dangerous neighborhoods within 30 days of the date of this decision.

APPROVED:

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Forrest L. Avila, Hearing Officer

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Peter McWalters, Commissioner

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December 30, 2003  
Date