

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTAITONS

COMMISSIONER OF  
EDUCATION

.....

**Walter Zuba**

v.

**Pawtucket School Committee**

.....

**DECISION**

Held: The petitioner is challenging his dismissal from his position as a school bus driver in the public schools of Pawtucket. After review on the question of jurisdiction, we conclude that the Commissioner lacks jurisdiction to consider Mr. Zuba’s dismissal as a school bus driver, since this dismissal does not “arise under any law relating to schools or education” or involve the construction of “any law relating to schools or education.” This matter is therefore dismissed for lack of jurisdiction.

DATE: May 31, 2005

## Travel of the Case

In this matter the petitioner is challenging his dismissal from his position as a school bus driver in the public schools of Pawtucket. Upon receipt of this petition the hearing officer in this matter directed the parties to brief the question of whether or not the Commissioner had jurisdiction to hear this matter. After considering the written arguments submitted by the parties we conclude that we lack jurisdiction over this matter and so we dismiss it.

## Conclusions of Law on Jurisdiction

Mr. Walter Zuba's petition alleges that he was a bus driver in the Pawtucket School Department until he was dismissed from this position because of allegations that he engaged in harassing behavior directed towards other bus drivers and that he operated his school bus in an unsafe manner. We do not address these allegations here because we lack jurisdiction under R.I.G.L. 16-39-1 or R.I.G.L. 16-39-2 to decide these issues. This is because the questions of whether Mr. Zuba harassed other employees or whether he was an unsafe driver do not "arise under any law relating to schools or education." In fact, the decision of the Pawtucket School Committee to dismiss Mr. Zuba, in and of itself, does not "arise under any law relating to schools or education" that we have been directed to, or which we know of. The applicable jurisdictional statutes state:

**R.I.G.L. 16-39-1 Appeal of matters of dispute to commissioner.** – Parties having any matter of dispute between them *arising under any law relating to schools or education* may appeal to the commissioner of elementary and secondary education who, after notice to the parties interested of the time and place of hearing, shall examine and decide the appeal without cost to the parties involved. (Emphasis added)

**R.I.G.L. 16-39-2 Appeal of school committee actions to commissioner.** – Any person aggrieved by any decision or doings of any school committee or in any other matter *arising under any law relating to schools or education* may appeal to the commissioner of elementary and secondary education who, after notice to the parties interested of the time and place of hearing, shall examine and decide the appeal without cost to the parties involved. (Emphasis added)

While under these statutes the Commissioner of education may review discretionary decisions of school committees, this does not mean that the commissioner has authority to review every "decision or doing of a school committee." The "matter" must be one "arising under any law relating to schools or education."<sup>1</sup>

For example, the Commissioner lacks authority to hear teacher collective bargaining disputes when no issue of school law is involved.<sup>2</sup> The Commissioner lacks jurisdiction to review employment grievances of janitorial staff when the grievance does

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<sup>1</sup> *Asadoorian v. Warwick School Committee*, 691 A2d 573 (R.I. 1997)

<sup>2</sup> *Hoag vs. Providence School Board*, Commissioner of Education, June 1988.

not arise under any law relating to schools or education.<sup>3</sup> The Commissioner does not have jurisdiction to review the granting of contracts for school ground maintenance<sup>4</sup> or to review a dispute between a teacher and a school committee about the meaning of a federal statute not related to education.<sup>5</sup> The Commissioner lacks jurisdiction to review the bidding process used to award school bus contracts.<sup>6</sup>

Given these holdings we conclude that the Commissioner lacks jurisdiction to consider Mr. Zuba's dismissal as a school bus driver since this dismissal does not involve the construction of "any law relating to schools or education." We therefore conclude that we must dismiss this matter.

The Pawtucket School Committee also contends that this matter is barred by the doctrine of election of remedies. We do not address this question because we have concluded that we lack any jurisdiction in this matter.

### Conclusion

This matter is dismissed for lack of jurisdiction.

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Forrest L. Avila, Hearing Officer

APPROVED:

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Peter McWalters, Commissioner

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May 31, 2005  
Date

<sup>3</sup> *Madden vs. Warwick School Committee*, Comm. (372), April 1984.

<sup>4</sup> *Tidy-Up Inc. vs. South Kingstown School Committee*, Commissioner of Education, April 1992.

<sup>5</sup> *Asadoorian v. Warwick School Committee*, 691 A2d 573 (R.I. 1997)

<sup>6</sup> *Laidlaw Transit, Inc. v. South Kingstown School Committee*. Commissioner of Education April 6, 1992