

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

P. DOE

V.

NORTH KINGSTOWN SCHOOL COMMITTEE

Interim Order

Held: Pending further hearing, student's morning transportation arrangement must be changed to accommodate her diagnosis and related physical, emotional and social issues.

Date: December 15, 2006

Introduction

This is an interim order request that seeks a different school transportation arrangement for student Doe.¹

Background

Student Doe is 7 years old and resides with her parents in North Kingstown. She is diagnosed with Asperger's Syndrome. For the 2006-07 school year, Doe is enrolled in a charter school located in South Kingstown.

For transportation to school, the North Kingstown School Department has assigned Doe a bus stop at an intersection approximately 125 feet down the street from her home.² Doe need not cross her street or the intersection to get to the stop. Doe is to take a bus from the stop and ride about 15 minutes to Davisville Middle School, a school consisting of grades 6 through 8. A monitor is assigned to this bus for Doe. A minibus with a monitor is waiting for Doe at Davisville Middle School. Doe is to ride the minibus for 7 to 10 minutes to Wickford Middle School. Doe is to stay on the minibus with her monitor while up to 11 other students from her charter school board the bus. The bus then travels 7 to 10 minutes to a Park and Ride where it meets a Jamestown School Department bus traveling to the charter school.³ The students on the minibus board the Jamestown bus for the approximately 15-minute ride to the charter school.

At the end of the school day, Doe is to take the Jamestown bus to the Park and Ride where she and the other North Kingstown charter school students board a North Kingstown bus. Doe is to stay on that bus until she is dropped off at her home. Each bus has a monitor. Total travel time for the afternoon ride is 40 to 45 minutes.

Doe's parents testified that Doe has difficulty with transitions and that she experiences anxiety, nausea and dizziness while riding buses.⁴ The resulting stress will

¹ The Commissioner of Education designated the undersigned hearing officer to hear and decide the request. A hearing was held on December 8, 2006.

² The hearing officer viewed the bus stop location, and the substantial amount of traffic on the road with which Doe's street intersects.

³ North Kingstown coordinates with Jamestown and Narragansett in providing out-of-district transportation.

⁴ Doe's parents testified that their daughter has a vestibular nerve condition that makes her prone to dizziness while riding in vehicles.

make Doe quiet and withdrawn at school, but tempestuous and violent later at home. Doe also is easily distracted, does not understand “road rules,” and cannot safely walk to and wait at the assigned morning bus stop.⁵ A letter from Doe’s primary care physician states that Doe cannot manage multiple buses and long rides, and that one bus with limited travel time better suits Doe’s state of social development. The doctor who is treating Doe for her Asperger’s wrote that she needs door-to-door transportation on one bus with travel time not to exceed 35 minutes each way.

Last year, Doe attended a North Kingstown elementary school a couple of miles from her home. Doe became anxious, nauseas and dizzy during the 10 to 15 minute bus rides. Doe’s North Kingstown individualized education plans have not provided for special transportation, and North Kingstown did not have the opportunity to participate in the most recent plan developed by the charter school.

Positions of the Parties

Petitioner contends that the assigned transportation arrangement is not suitable for student Doe. Citing Doe’s diagnosis and attendant physical, social and emotional difficulties, Petitioner argues that Doe needs to be picked up and dropped off at home and driven directly to and from school without changing buses. Petitioner maintains that the current arrangement poses safety risks for Doe and undermines her ability to learn at school by causing her anxiety and emotional upset.

The School Department contends that it is not obligated to provide individualized taxi service to students, and that the transportation arrangement for Doe is safe and suitable. The arrangement is consistent with the multi-district approach that North Kingstown takes in meeting its statutory regional transportation responsibility, and it gets Doe to school on time with ride times well within those found to be reasonable by the Commissioner. Furthermore, the letters from Doe’s doctors lack sufficient foundation and detail to establish that the current arrangement is not suitable.

⁵ There is no sidewalk on Doe’s street or the intersecting street.

Discussion

Under Rhode Island General Law 16-39-3.2, we consider requests for interim protective orders “pending a hearing to ensure that a child receives education in accordance with applicable state and federal laws and regulations during the pendency of the matter.” Often, these requests accompany requests for special education due process hearings and we are asked to maintain the status quo during the due process proceeding. In other instances, we are able to conduct a full hearing on the request and reach a final decision on the merits of the matter for which interim relief was sought.⁶ In this case, a limited record was developed with regard to Doe’s indisputable legal right to suitable transportation to and from school. While Doe’s age, the distance to be walked, road and traffic conditions and riding times are well documented, her particular characteristics that affect her walking and riding abilities are not. As previously referenced, the record contains brief letters from two of Doe’s doctors. The letters offer conclusions, with few findings and little supporting information, and the doctors were not available for questioning. We therefore find that this matter requires further hearing regarding Doe’s physical, mental and emotional characteristics. We will schedule this hearing on an expedited basis.⁷

In the meantime, based on the record before us, we are unable to approve Doe’s morning transportation arrangement. Given her diagnosis and related issues, we find that Doe needs to be picked up in the morning from her home and transported directly to school without changing buses. Her bus may pick up additional students as long as it does not significantly lengthen her ride. Our ruling is primarily based on safety considerations and a concern that the present length of Doe’s morning ride and the changing and connecting stops are adversely affecting her readiness and ability to benefit from the education plan that has been developed for her. We find Doe’s afternoon transportation to be satisfactory for the time being, pending further hearing in this matter.

⁶ See, *e.g.*, In the Matter of Kerry H., November 16, 2001; In Re Student D., October 5, 2001; In the Matter of Student K.M., October 26, 2000.

⁷ See, *e.g.*, Residency of Nicola L., March 23, 2005.

Conclusion

We hereby enter an interim protective order directing the North Kingstown School Department to provide morning transportation to student Doe which includes a pickup at the home and a ride to her charter school that is direct and does not require her to change buses. We also will schedule this matter for further hearing, as discussed above, forthwith.

Paul E. Pontarelli
Hearing Officer

Approved:

Peter McWalters
Commissioner of Education

Date: December 15, 2006