

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

.....

Bethany P.

v.

**Exeter-West Greenwich
Regional School Committee**

.....

DECISION

Held: The current transportation provided to the Petitioner's son is not suitable because it requires his parent to drive him to the Wawaloam School, a distance of approximately eight miles from their home, for him to get a bus which departs at 7:35 a.m. and arrives at the Compass School at 8:25 or, in the alternative, for her child to take a bus from his home at 6:05 a.m. to arrive at school at 8:25 a.m. In order for her child to avoid a two hour and twenty minute bus commute each morning, and a similar travel time at the end of the school day, the Petitioner must provide transportation for her child, a responsibility placed on the district under state education law.

DATE: November 21, 2007

Travel of the Case

On October 25, 2007 Bethany P. requested a hearing with Commissioner Peter McWalters with respect to her contention that the current transportation of her son to the Compass School in Kingston, Rhode Island was unsuitable. The matter was scheduled for an expedited hearing and on November 14, 2007 the parties appeared to present testimony and documentary evidence before the designated hearing officer. The record in the case closed the day following the hearing, when it was determined that the hearing officer would use her notes, rather than wait for a transcript in this case.¹

Jurisdiction to hear this dispute arises generally under R.I.G.L. 16-39-1 and more specifically under R.I.G.L. 16-21.1-5, involving disputes arising when districts transport students beyond city and town limits, but within the region of their “school bus district”.

ISSUE

Is Mrs. P.’s son provided with suitable transportation to and from the Compass School in Kingston on each school day?

Findings of Relevant Facts:²

- ♦ Mrs. P. and her family reside in Exeter, Rhode Island. Her eight (8) year old son attends the Compass School, a public charter school located in Kingston, Rhode Island.
- ♦ At the beginning of this school year, Mrs. P. received information that a bus would be provided from her home each day at 6:05 am in the morning and take her son, along with other students attending the Compass School and Kingston Hill Academy, another charter school located in Saunterstown, Rhode Island, to school each day.
- ♦ The bus arrives at the Compass School at approximately 8:25am. The school day starts at 8:40am.
- ♦ Because she determined that a 2 hour and 20 minute commute in the morning to school (and a 2 hour and 10 minute bus ride home) was too lengthy for her eight year old son, Mrs. P. currently drives him 8.8 miles to the Wawaloam School where he is picked up by the bus at 7:35-7:40 am and then proceeds to the Compass School, arriving at 8:25am. In the afternoon, Mrs. P. again goes to the “alternative bus stop” and drives her son home.
- ♦ The Compass School is approximately 20 miles from Mrs. P.’s home, a drive of approximately 35-40 minutes of straight driving time.

¹ This appeal was heard on the same day that an interim order request was heard from a different set of parents on substantially the same issue and facts. Since the decision in this companion case, as an interim order, is due five (5) days from the close of the hearing and the cost of an expedited transcript was not deemed warranted, a decision was made to coordinate the issuance of both decisions within the same timeframe.

² All facts are based on the hearing officer’s notes, rather than specific pages of a transcript, which was not available at a reasonable cost within the applicable timeframe for the decision in the companion case.

- ♦ The Compass School is located within the Region IV school bus district, as is the Exeter-West Greenwich regional school district.
- ♦ Approximately 16 out of 22 eligible children currently utilize bus transportation to Compass and Kingston Hill Academy, which are located about ten minutes apart .
- ♦ For the students who do utilize the bus from Exeter-West Greenwich to Compass and Kingston Hill Academy, the travel time to school is no more than 1 and ½ hours.
- ♦ The Exeter-West Greenwich school district is comprised of 106 square miles.
- ♦ The sixteen students who are currently being transported to and from the Compass School and the Kingston Hill Academy are dispersed widely over the regional district, and those who are not currently taking the bus are dispersed over an even larger area.
- ♦ Given the level of ridership last year, the district budgeted for one bus to serve the Compass School and Kingston Hill Academy students this year.
- ♦ During a six week period at the end of the last school year, the district added an additional bus to this route, which decreased the travel time of the students from 2 hours and 20 minutes to 1 hour and 5 minutes each way.
- ♦ This year the district has proposed a system of “group bus stops” in order to shorten the ride times for students who attend the Compass School and Kingston Hill Academy.³
- ♦ District officials have tried to reconfigure routes in order to shorten bus travel times as much as possible this year.
- ♦ The addition of another bus would involve considerable expense for the district.⁴ Approximately \$55,000 is the annualized cost of each additional bus.
- ♦ The district has received complaints from other parents that the bus transportation currently offered by the Exeter-West Greenwich Regional School District to these two schools is not suitable.

Positions of the Parties

The Petitioner

The Petitioner argues that her son is entitled to suitable transportation to and from school each day and that the Exeter-West Greenwich school district has failed to provide this. Because the proposed transportation plan at the beginning of the year would have involved a two and one-half hour bus ride to and from school, she has had no choice but to drive her young son later in the morning to catch the bus at the Wawaloam School. In the event she

³ The hearing officer’s notes do not indicate if one of the group bus stops proposed by the district is a point at which the Petitioner currently drops off her son and picks him up each day. Testimony from district officials was that the system of group bus stops was currently “on hold” and had not been well-received by the parents involved.

⁴ In listing this as a relevant fact, it should be kept in mind that cases have held that expense is not a defense for noncompliance with a statutory mandate. It is, however, a fact which one must take into account in determining cases in which the suitability of transportation is called into question by the length of a student’s travel time.

should be unavailable to drive him or pick him up each day, his attendance at school would be compromised. She notes that her family's residence in the Region IV "school bus district" and the Compass School's location in the same region creates a legal entitlement to suitable transportation pursuant to R.I.G.L. 16-21.1-2. She cites the Commissioner's decision in the case of Debbie F. v. Exeter-West Greenwich Regional School District (August 7, 2003) as precedent that a two hour bus ride each way is not suitable transportation in this locale for a student of such a young age.

From mid-April until the end of the last school year, a second bus was utilized to service the students going to Compass and Kingston Hill Academy. As a result, the time of the trip for students attending was reduced to a little over one hour. This year there is only one bus available and it would appear the reason for the change is to save money. She cites the decision of William B. v. Exeter-West Greenwich Regional School Committee (August 5, 1992) for the proposition that despite budget constraints and ongoing fiscal pressures, the statutory obligation of districts to provide suitable transportation for students to go to and from school is unwavering. The petitioner submits that she has proven that the current arrangements are not adequate or reasonable.

The Exeter-West Greenwich Regional School District

In terms of geography, counsel for the district notes the unusual circumstances in this case in which a district as large as 106 square miles, with students widely dispersed in a rural setting, are attending charter schools at a considerable distance from the border of the district. One would reasonably anticipate that, given the distances to be traveled, the transportation provided would involve longer riding times than those experienced by in-district students and students in other districts in the state. Currently, the riding times of some in-district students exceed one hour and students transported beyond district borders encounter commute times approaching two hours in some cases.

In this context, then, it is the opinion of the district's director of administration, as well as the bus contract manager, that the transportation arrangements offered to the Petitioner at the beginning of the year were reasonable and satisfy the requirements of the law. The door to door pick up and drop off point was safe, and the length of the ride had been reduced as much as possible. The alternate early September proposal for "group bus stops" did not gain broad acceptance from the parents affected, and the addition of another bus would come at significant, unbudgeted cost for the school district. The addition of a second bus at the end of the prior school year came about unexpectedly, when the transportation needs of two families changed and the district was able to obtain a second bus for the last six weeks of the school year at a reduced cost. This year, only one bus has been budgeted because in the past one bus met the transportation needs for students attending these two charter schools.

DECISION

Essentially these same issues were confronted by Exeter-West Greenwich when it presented its arguments in the case of Debbie F. v. Exeter-West Greenwich, decision of the Commissioner dated August 7, 2003. In that case, transportation arrangements for a nine year old student attending the West Bay Christian Academy came under scrutiny. The conclusion of the Commissioner in that case was that a two-hour bus ride to and from school each day “exceeds the capacity of a 9-year-old child” and the district was directed to make arrangements for suitable transportation for the upcoming school year. This precedent is clearly applicable to the facts in this case.⁵ We find that four hours of travel time per school day would be injurious to the health and welfare of a student of such a young age.

Even taking into account the fact that it is by virtue of a parental decision that this young student attends a charter school located at a considerable distance from his home, his parents’ decision does not remove from him the statutory right to suitable transportation. See: In Re: Closing of the Prudence Island School, decision of the Commissioner dated October 3, 2007. The limits to this statutory entitlement to suitable transportation were determined by the General Assembly when it configured the five regions constituting “school bus districts” in our state. The creation of charter school options for students within a school bus region, but outside of the geographical limits of the district in which those students reside entails a not-unforeseeable expense. To deny charter school students suitable transportation would remove such options from their reach – a result clearly not intended by the General Assembly.

For the foregoing reasons, we find that suitable transportation arrangements have not been made for Mrs. P.’s son to go to and from the Compass School each day. The district must provide suitable transportation forthwith with the discretion to meet its statutory obligation by further adjusting the routes, using a smaller bus or van, or some other means.

For the Commissioner,

Kathleen S. Murray, Hearing Officer

APPROVED:

Peter McWalters, Commissioner

November 21, 2007
Date

⁵ Although it is true that there were additional factors in the Debbie F. case which made the second transportation option offered by the district unsuitable, the length of the two-hour bus ride was clearly the determinative factor in the Commissioner’s decision.