

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

.....

Jennifer W.

v.

**Exeter West Greenwich
Regional School Committee**

.....

DECISION ON
INTERIM ORDER REQUEST

Held: The transportation arrangements offered to the Petitioner for her two children to go to and from the Compass School each day were not suitable because of the length of the bus ride each day. The district is ordered to provide suitable transportation forthwith.

DATE: November 21, 2007

Travel of the Case

On October 21, 2007 Mrs. W. requested a hearing in a letter submitted to Commissioner Peter McWalters because she questioned the appropriateness of the transportation offered by the Exeter-West Greenwich School District to get her two children to the Compass School in Kingston, Rhode Island each school day. Thereafter, she submitted a follow-up letter requesting an interim protective order because she had been transporting her children to and from school each and was concerned that she could no longer do this on a regular basis. The matter was assigned to the undersigned for hearing and decision and a hearing was scheduled by agreement of the parties on November 14, 2007. The record in this case closed on 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, since under R.I.G.L. 16-39-3.2 a decision on the issuance of an interim order is due within five (5) working days after the close of the hearing.

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

Have Mrs. W.’s children been offered suitable transportation to and from the Compass School in Kingston by the school district in which they live, as required by R.I.G.L. 16-21.1-2 and 16-21.1-4?

Findings of Relevant Facts:¹

- ♦ Mrs. W and her family reside in the town of West Greenwich, quite close to the Connecticut line. Her children, ages 7 and 9 attend the Compass School, a public charter school located in Kingston, Rhode Island.
- ♦ At the beginning of this school year, Mrs. W. received information that a bus would be provided at a pick up point close to her home each morning at 6:30am to take her children to the Compass School. The bus would arrive at school about 8:30 am. The return trip would bring the children home at about 5pm.
- ♦ Mrs. W. and her husband determined that a daily commute to school totaling four hours would be detrimental to both of their children’s health and welfare. In the prior year their nine year old daughter had experienced some behavior problems because of prolonged time on the bus.

¹ All facts are based on the hearing officer’s notes since the transcript was not available at a reasonable cost within the time frame required for this decision.

- ◆ In April of 2007, when a second bus was added for the remainder of the year for children going to the Compass School and Kingston Hill Academy, Mrs. W.'s daughter had a bus ride each way of about one hour.
- ◆ The Compass School is approximately 20 miles from the Petitioner's home and, driving straight from their home to school, is about a 45 minute drive.
- ◆ Mrs. W. and her husband have been driving to and from school with their children each school day but have continued to request that the district provide more suitable bus transportation.
- ◆ Mrs. W. anticipates that she will be working in the near future and will no longer be able to transport her children to and from school.
- ◆ In-district there are some Exeter-West Greenwich children whose commute to school exceeds 1 hour. There are other children who are serviced by the district's school buses and travel as long as 2 hours to and from their out-of-district schools.
- ◆ Of the 20-22 students who are eligible for bus service to the Compass School and Kingston Hill, those who elect not to utilize the district-provided transportation are those who would have the longer bus rides.
- ◆ The Exeter-West Greenwich school district is comprised of 106 square miles and is, for the most part, a rural community.
- ◆ The district's school budget for this year allocates funds for one bus to service the district's students attending the Compass School and Kingston Hill Academy.
- ◆ The addition of another bus would involve considerable expense for the school district.² Approximately \$55,000 is the annualized cost of each additional bus.³
- ◆ District officials have tried to reconfigure routes in order to shorten bus travel times as much as possible this year.

² Although expense is not determinative in a district's compliance with clear statutory mandates, it is a fact which bears on the finding of whether a bus ride is inconveniently long or, in the alternative, fails to meet the requirement of "suitable transportation" under the statute. See Carvalho v. Barrington School Committee, January 4, 1994 (at page 8). In Carvalho, it was noted that an extremely long commuting time to school, especially for young children, could impact negatively on their welfare. In the Carvalho case, we found that, given the high school age of the students, the level of inconvenience for Bay View students in utilizing district transportation to and from school was not so extreme as to render the transportation unsuitable under the statute.

³ The district's director of administration testified that utilizing other "pupil transportation vehicles" as allowed under the new law, R.I.G.L. 31-22.1-1 et seq and the amendments to Chapter 22 of Title 31 for smaller groups of students has not been possible yet because vehicles meeting all the specifications are not yet available.

- ♦ 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.
- ♦ Exeter-West Greenwich and the Compass School are located in bus district Region IV under R.I.G.L. 16-21.1-2.

Positions of the Parties

The Petitioner

Mr. and Mrs. W. submit that, under the applicable statute on inter-district busing, their two children are entitled to suitable transportation to and from the Compass School each day and that their district has failed to comply with the statute to date. They note that during an approximate six-week period at the end of the last school year when a second bus was added, their nine-year old daughter did receive suitable transportation. This year, with the district servicing the same group of students dispersed over the 106 square miles of the Exeter-West Greenwich district with only one bus, the resulting four hours of travel time on the school bus is not suitable. Rather than have their two young children unable to eat or drink, or go to the bathroom for four hours each school day, have diminished energy for school and less time for homework and activities, they have driven them to school since the beginning of this year. Mrs. W. notes that she does not anticipate being available to drive them (since she will be working) in the near future. They cite the case of Debbie F. v. Exeter-West Greenwich, decision of the Commissioner dated August 7, 2003, as controlling precedent clearly establishing the district's obligation to provide a transportation which would shorten the bus ride.

Exeter-West Greenwich Regional School District.

The district reiterated the arguments made in a companion case, Bethany P. v. Exeter-West Greenwich Regional School Committee, also heard on November 14, 2007. Rather than repeat those arguments, a copy of the decision in that case is attached hereto as Exhibit A. The district notes in this case that the most cost efficient and effective way to shorten the travel times for the students traveling to the Compass School and Kingston Hill Academy is to utilize group bus stops located at central points along the travel route, a proposal that has received a "tepid" response from parents to date this year.

DECISION

We find that Mrs. W. has established her entitlement to the issuance of an interim protective order requiring the Exeter-West Greenwich Regional School District to provide suitable transportation to and from school to her two children who attend the Compass School. The rationale for this decision is set forth in the companion case of

Bethany P. v. Exeter-West Greenwich Regional School Committee, attached hereto as Exhibit A.

The Petitioner has requested an interim order, but we do not expect that there is additional evidence that either party wishes to submit. Unless we are notified of the need for additional hearing for that purpose, the interim order decision will become the final decision in this case within five (5) days.

For the Commissioner,

Kathleen S. Murray, Hearing Officer

APPROVED:

Peter McWalters, Commissioner

November 21, 2007
Date