

STATE OF RHODE ISLAND  
AND  
PROVIDENCE PLANTATIONS

COMMISSIONER OF  
EDUCATION

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**Student M. Doe**

v.

**Cranston School Committee**

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**DECISION**

Held: This is an appeal regarding an alternative school bus assignment resulting from an incident of sexual harassment during a bus ride to school. The student who was the recipient of the unwanted touching shall be provided with the regular school bus transportation assigned to all other students on her school bus route. For reasons explained within this decision, the student who imposed the unwanted touching shall be assigned alternate transportation. If the school district has concerns for any reason about the feasibility of assigning this student to alternative transportation, we will hear any issues thus presented as a separate appeal, which will not involve the student who was harassed. At the end of the 2008-2009 school year, the school district may review the need for alternative transportation.

DATE: August 25, 2008

## **Jurisdiction and Travel of the Case**

This is a school bus transportation case. It results from a school bus assignment which a school district has made and which it now refuses to change. Jurisdiction is present under R.I.G.L.16-39-1 and R.I.G.L.16-39-2.

## **Findings of Fact**

1. The seventh grade female student in this case was the victim of sexual harassment by a male student during a school bus ride to school. The parties differ on the severity of the harassment involved, but, from our prospective, impermissible touching were clearly involved. The harassment also included the whispered comment: "Are you walking home alone."
2. In our judgment, if the school had taken no disciplinary action in this matter it would have opened itself to a charge that it was tolerating sexual harassment.
3. The school district, in fact, did discipline the student who imposed the unwanted touching that occurred on the bus ride. The case now before us only tangentially involves this incident on the school bus. Instead the matter now before us relates to a school bus transportation issue that developed after this incident.
4. When the student who initiated the unwanted touching returned to school, the victim of the touching was distressed to find that that she was once again riding the bus with this same student. He had been assigned to the front seat of the bus so she had to walk by him every school day. His presence on the bus caused her great distress and concern, which interfered with her home and school life.
5. The school district declined to remove the offending student from the bus run. Instead it offered the student who had been harassed the opportunity to ride a small bus to school. As is the case with most buses this bus carries students in regular and in special education.
6. The school district seemed to feel that to change the harasser's bus schedule would be to increase the penalty imposed against him, and this school district declined to do. If the student who had been harassed did not accept this alternative

transportation she would have to ride the bus with the student who had harassed her or have her parents transport her.

7. We find that the emotional distress experienced by the offended student as a result of the unwanted touching is not excessive or unreasonable.

### **Positions of the Parties**

#### **The Parents of the Student who was Harassed**

The parents of the offended student contend that student who imposed the harassment should be the one who is assigned to alternative transportation. They contend that their daughter, as the offended party, should be free to ride her regularly assigned bus with her regular school companions instead of being assigned to alternative transportation.

#### **Position of the School District**

The school district argues that it has provided counseling to the student who was harassed and that there is nothing more it can do now.

#### **Position of the Parents of the student who was Disciplined**

The parents of the student who imposed the unwanted touching agree that what happened should not have happened, but they feel that the matter is now over, and that their son should not have his bus riding privileges changed in a way which they feel would increase the discipline which has already been imposed against him.

### **Conclusions of law**

1. A student is entitled to receive school bus transportation when distance, or other factors, make it impractical for the student to walk to school. R.I.G.L.16-21-1
2. The Commissioner exercises de novo review authority in cases which fall within the Commissioner's appellate jurisdiction. *School Committee v. State Board of Education*, 103 R.I. 359, 237 A.2d 713 (1968)

**Discussion**

At this stage of this matter we think the disciplinary issues in this case have been essentially resolved. The issue now before us is the practical one of deciding under the facts of this case what is the most “suitable” form (R.I.G.L. 16-21-1) the student transportation now at issue should take. We think that as a general rule the student who initiates harassing behavior should be the student who is assigned to alternative transportation. If this course of action is not followed it may lead the student who has been harassed to conclude that the harasser is still controlling the situation to the detriment of the student who has been harassed. This is not a situation which should be allowed to prevail.

**Conclusion**

The student who was the recipient of the unwanted touching shall be provided with the regular school bus transportation assigned to all other students on her school bus route. The student who imposed the unwanted touching shall be assigned alternate transportation. If the school district has concerns for any reason about the feasibility of assigning this student to alternative transportation we will hear any issues thus presented as a separate appeal, which will not involve the student who was harassed. The school district may review the need for alternative transportation at the end of the 2008-2009 school year.

APPROVED:

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Forrest L. Avila, Hearing Officer

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Peter McWalters, Commissioner

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August 25, 2008  
Date