

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

R. DOE

v.

NORTH PROVIDENCE SCHOOL DEPARTMENT

Decision

Held: School district may not require adult supervision from the home as part of a student's transportation arrangement. Afternoon bus stop on Doe's street with aide escort to Doe's home is suitable transportation under §16-21-1. Issues concerning disabled child's independence and life skills must be addressed in the IEP process.

Date: August 6, 2010

Introduction

This matter requires a determination of the suitability of the location of an afternoon bus stop.¹

Background

Student Doe is 9 years old. He is mildly mentally retarded. His home is the last house on a street which dead-ends at a pond. The pond curves near the end of Doe's street and runs parallel to the full length of the street. The street which Doe's street intersects also ends at the pond.

For the 2009-10 school year, Doe was assigned a bus stop at the other end of the intersecting street. Initially accompanied by his mother, and later on his own, Doe walked to and from the bus stop. Midway during the school year, the school district moved Doe's afternoon bus stop to the corner of Doe's street and the intersecting street. The district also required that an adult from Doe's home watch him walk about 400 feet down the street to the home.

Doe has an individualized education program (IEP) which lists transportation as a related service. The IEP does not provide any specifics as to Doe's transportation arrangement. In May 2010, the district offered an escort plan which included a gradual phase-out of the aide accompanying Doe on his walk down his street. At the hearing, a school psychologist and the special-education director from the district testified about their concerns with the proximity of the water, Doe's level of functioning, and the possible consequences if Doe were to be distracted while walking to his home unsupervised.

Positions of the Parties

Doe's mother does not challenge the new location of the afternoon bus stop, but she objects to the district's requirement that Doe be supervised by an adult as he walks from the bus to his home. She claims that Doe is ready to learn this life skill and acquire some independence. She notes that Doe travels the same street on his own as part of his longer walk to the morning bus stop.

The school district contends that the testimony of the school psychologist and the special-education director establishes the need for adult supervision, and that the escort plan it developed in May was designed to make Doe more independent.

¹ A hearing was held on June 17, 2010.

Discussion

There is no dispute in this case that student Doe lives far enough from school so as to qualify for “suitable transportation” under Rhode Island General Law 16-21-1. The statute requires transportation for students in order to avoid making regular attendance at school “impractical.” The Rhode Island Supreme Court has stated that the purpose of the transportation statute is “to encourage school attendance and to protect the health, safety and welfare of the pupil.”²

In Krupka v. Chariho Regional School District, we stated that “the issue of practicality is based on the assumption that the student travels the route to school, or to the bus stop, on his own, unaccompanied by a parent or other responsible adult.” (emphasis in original).³ We find that the adult supervision from Doe’s home that is being required by the school district in this case is tantamount to the type of accompaniment that is not allowed in the assignment of a bus stop. Doe’s mother therefore is within her rights to reject the stipulation that has been placed by the district on the afternoon dropoff location.

It is apparent from the testimony in this matter, however, that the elimination of the home supervision requirement will not resolve this situation. We would not be surprised if, given its safety concerns for Doe, the school district replaces the home- supervision arrangement with the aide escort plan it developed in May.⁴ This development would raise the question of whether Doe can safely walk down his street on his own. We shall address that question.

The Commissioner of Education has decided many cases in which student transportation arrangements were in dispute. These cases involved bus stop locations, assistance and conditions on the bus, and the length of the ride. Consistent with the statutory language and the Supreme Court decision discussed above, the Commissioner’s decisions are guided by considerations of student safety and comfort.

This case is different. Rather than asking for a bus stop closer to home so as to be able to better observe her child, student Doe’s mother is opposed to any required supervision or accompaniment of Doe as he walks down his street. Her position in this case is not based primarily on safety concerns. She does not believe that her son is confronted with undue risk or danger. Instead, she believes that this is an appropriate opportunity for her son to increase his independence and autonomy.

² Chaves v. School Committee of Middletown, 211 A.2d at 641 (1965).

³ Commissioner’s decision of February 24, 1995, pp. 6-7.

⁴ We are assuming that driving the bus down Doe’s dead-end street is not an option.

Issues involving the safety and practicality of a bus stop location are properly addressed under §16-21-1. Issues involving a disabled student's independence and life skills are properly addressed in the IEP process. Under §16-21-1, a dropoff location on Doe's street with an aide escorting Doe to his home would protect student safety, encourage regular attendance at school and therefore constitute "suitable" transportation. As for Doe's disability, the Office of Special Education Programs at the U.S. Department of Education has stated that if a child with disabilities needs transportation to benefit from special education, then transportation must be provided as a related service. In all instances, the child's need for transportation as a related service and the type of transportation to be provided are issues to be discussed and decided during the evaluation process and IEP meeting. If the transportation arrangement decided upon is provided as a related service, it must be included in the IEP. If agreement cannot be reached in the IEP meeting, then the issue may be taken to a due process hearing.⁵

Conclusion

The North Providence school district may not require adult supervision from Doe's home as part of the transportation arrangement it provides to student Doe. An afternoon bus stop on Doe's street with an aide escorting Doe to his home would constitute suitable transportation under §16-21-1. Issues concerning Doe's independence and life skills as they pertain to the transportation Doe needs as a related service must be addressed in the IEP process.

Paul E. Pontarelli
Hearing Officer

Approved:

Deborah A. Gist
Commissioner of Education

Date: August 6, 2010

⁵ 20 IDELR at 1157 (1992).