

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF EDUCATION

.....
Students Requesting Transportation

vs.

Exeter-West Greenwich School Committee
.....

DECISION

The parents contend that bus stops are placed at excessive walking distances from their homes and that the walking routes involved are unsafe or that they contravene Rhode Island law. We direct the Rhode Island Office of Statewide Efficiencies and the Exeter-West Greenwich Regional School District to expeditiously reconsider the placement of the bus stops now at issue in the light of the legal standards set forth in this interim order decision.

DATE: October 15, 2012

Jurisdiction and Travel of the Case

The present matter is now before the Commissioner of Education on the basis of a number of petitions for interim protective orders concerning the placement of bus stops located in the Exeter-West Greenwich Regional School District for students receiving cross-district busing services under Chapter 21.1 of Title 16. The parents contend that these bus stops are placed at excessive walking distances from their homes and that the walking routes involved are unsafe or that they contravene Rhode Island statute law. Jurisdiction is present under R.I.G.L.16-39-1, R.I.G.L 16-39-2, R.I.G.L.16-39-3.1 and R.I.G.L. § 31-20-10.3. For purposes of ruling on the interim order requests now before us, we hereby combine these matters for an interim decision.

Conclusions of Law

1. Walking Distance – General Rule

A student is eligible to receive transportation to a public or private school located in his or her school district if distance—or certain other factors—make it *impractical* for the student to walk to school:

R.I.G.L.16-21-1. Transportation of public and private school pupils. – (a)
The school committee of any town shall provide suitable transportation to and from school for pupils attending public and private schools of elementary and high school grades, except such private schools as are operated for profit, who reside so far from the public or private school which the pupil attends as to make the pupil's regular attendance at school *impractical* and for any pupil whose regular attendance would otherwise be impracticable on account of physical disability or infirmity. (*Emphasis added*)

The Rhode Island Supreme Court has listed three factors to be used in deciding whether it is impractical for a student to walk to school:

- ⇒ *The age of the child*
- ⇒ *The distance walked*
- ⇒ *The hazards along the roadway.*

If these factors, taken separately or together, make it impractical for a student to walk to school, the school committee must provide transportation.¹ The standard for being able to walk to a school bus stop is the same standard used in deciding whether a child is able to walk to school.²

A school committee may establish a general walking distance rule, but this rule cannot be applied in cases where it would be impractical for a child to walk to school. For example, in most parts of a town it might be entirely possible to have middle school students walk a mile to school. In some specific parts of the town, perhaps a heavily travelled area with numerous streets to cross, a mile walking distance might be entirely impractical in the case of a small child. In such cases the school committee would have to provide transportation in spite of its general walking distance rules.³

2. Walking Distance to Bus Stop – Cross District Busing Law

We can see no reason why the safety standards established by our Supreme Court for in-district walking distance should not apply with equal force to students walking to bus stops established for purposes of Rhode Island’s cross district busing statute. Both the in-district transportation law (R.I.G.L. 16-21-1) and the cross-district busing law are intended to promote student safety and compliance with Rhode Islands compulsory attendance law. We can see no reason why safety standards should differ between the two laws.

3. General Standards for Establishing Bus Stops

The applicable Rhode Island General Law concerning the establishment of bus stops reads as follows:

¹ *Brown v. Elston*, 445 A.2d 279 (R.I. 1982).

² *Bauerle vs. North Kingstown School Committee*, Commissioner of Education, October 1992.

³ *In the Matter of Student K.M.*, Commissioner of Education, October 26, 2000.

R.I.G.L. § 31-20-10.3 School bus stops – Routes. – (a) No school bus shall stop to discharge or pick up passengers at any intersection where traffic control device as defined in § 31-1-28 controls the movement of the bus. (Emphasis added)

(b) No school bus shall stop to discharge or pick up passengers at any location which would require a child to cross any road where the posted speed limit is greater than thirty-five miles per hour (35 mph). School bus stops shall be developed in such a manner which assures that the bus stop will be on the child's home side of the road so that the child does not have to cross the road to board the bus or to reach home. (Emphasis added)

(c) No school superintendent, school committee, contractor, or school bus owner shall put into effect any school bus route which cannot be completed in the time allotted without exceeding posted speed limits.

(d) All school bus routes shall be reviewed by the local police chief of each city and town for safety hazards within ninety (90) days before the start of the school year.

(e) Any party may appeal the decision of a local police chief approving or disapproving any bus route or stop to the commissioner of elementary and secondary education who shall hold a hearing as provided in § 16-39-1.

Coordination Authority of the Commissioner of Elementary and Secondary Education

The Commissioner of Education is...”responsible for the coordination of the various elementary and secondary educational functions among the educational agencies of the state including local school districts and to encourage and to assist in the cooperation between them so that maximum efficiency and economy may be achieved.” (R.I.G.L 16-60-6 (5)) We find that this statute grants to the Commissioner’s office, acting through the Office of Statewide Efficiencies, coordinating authority in this matter.

Matters not Addressed in this Interim Decision

We do not address any issues involving R.I.G.L. 16-21-1 (c) which, *inter alia*, allows the Commissioner to grant variances in some situations and R.I.G.L. 16-21.1-8 which, *inter alia*, relates to technical and financial matters concerning school district participation in Rhode Island's cross-district busing law. We also do not address the issue of whether the Rhode Island Department of Education should be added as a party defendant in this matter. For purposes of this interim order hearing, this decision is limited to issues relating to the location of bus stops as other issues not expressly addressed are of no immediate importance and, if they are to be addressed at all, would be done so only in the context of a final decision of this matter.

Findings of Fact

Given the nature of this proceeding as an interim order hearing and the need to move expeditiously, we will paint our findings of fact in broad brush strokes. We find, based upon the record of this hearing, that the bus stop placements in this matter need to be reconsidered. It is evident that for many of the children concerned the walking distance to their respective assigned bus stops, or the safety issues presented by their required walking routes, make walking to their assigned bus stops impractical. There exists also substantial concern as to whether the established bus stops conform to the necessary requirements of R.I.G.L. 31-20-10.3.

Conclusion

We direct the Office of Statewide Efficiencies and the Exeter-West Greenwich Regional School District to expeditiously reconsider the placement of the bus stops now at issue in the light of the legal standards set forth in this interim order decision. Ms. Cynthia Brown of the Office of Statewide Efficiencies is hereby appointed a Special Visitor for purposes of promptly filing with the Office of the Commissioner a report on the conclusions of this reconsideration within ten (10)

days from the date of this interim order decision. If this matter is not resolved through this reconsideration, a more specific interim order may be issued or a further hearing may be held. We refrain from issuing specific interim order at this time because we believe that this matter may be most promptly resolved through reliance on the technical expertise of those charged with providing the cross-district transportation services now at issue.

For the Commissioner

Forrest L. Avila

David V. Abbott, Action Commissioner

DATE: October 12, 2012