

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION

*In Re: Student/NHDOE/Derry Cooperative School Board*

*SB-FY-11-05-014*

**RECOMMENDATION TO STATE BOARD ON MOTION TO DISMISS**

The Derry Cooperative School Board filed a Motion to Dismiss the Parents' Appeal arguing that the State Board should dismiss the Appeal because it does not have authority to establish a new bus stop location. The Motion also references the State Board not having jurisdiction over Section 504 Claim, however, this is not a Section 504 Claim; and the matter should not be dismissed on that basis. The Parents' Appeal letter dated May 23, 2011, indicated that the Parents were appealing the Derry Cooperative School Districts' denial of their request to have their child's school bus pick the child up at the home as opposed to the existing bus stop. RSA 189:8 provides that pupils entitled to transportation in accordance with RSA 189:6, may be required to walk a distance not to exceed one mile to any school bus stop established by the local school board. The Parents' Appeal indicates that the child must walk approximately ½ mile to the buses stop. The Parents argue that due to SENSORINEURAL hearing loss, the student is subject to a dangerous situation in walking to and from the bus stop. RSA 189:8 further provides that "School Districts shall assure that pupils shall not be subjected to unsafe conditions while walking the required distance to a school bus stop and that the school bus stop is established in a safe location". Commissioner Virginia Barry notified the parents on April 25, 2011, that the Derry School District has met the requirements of both RSA 189:6 and RSA 189:8). A report from a consultant, Gary Guzouskas was attached to Commissioner Barry's report. While the

report. While the Parents take issue with the findings in the report from the consultant, the undersigned recommends that the State Board grant the Motion to Dismiss because it is up to the local school board to establish the location of a bus stop. Even if the Parents are correct and the bus stop in question is unsafe for their child, their request to have the bus pick the child up in front of the home is, in effect, a request for the Parents to establish the bus stop. This is only within the jurisdiction of the local school board.

Finally, the Derry School District offered a reasonable accommodation to the Parents by sending a smaller bus to pick the student up, and the Parents rejected that request.

For the above reasons, the Hearing Officer recommends that the Motion to Dismiss be granted.

**SO ORDERED:**

Dated: 07/18/11

  
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John P. LeBrun, Esquire  
Hearing Officer