

STATE OF NEW HAMPSHIRE  
DEPARTMENT OF EDUCATION

In Re: Student/NHDOE/Derry School District  
Case No.: SB-FY-11-12-008

**RULING ON MOTION TO DISMISS**

The Derry Cooperative School Board filed a Motion to Dismiss and the Parent filed an Objection to that Motion. The School Board contends that, pursuant to the provisions of RSA 189:8, the Parent is not entitled to a hearing before the State Board challenging the School District's decision relative to the existing bus stop and the Parent's request that an additional bus stop be put into place. The Parent argues that the matter should not be dismissed because the bus stop in question is unsafe. The School Board points to the decision in Wiswell v. Pembroke School District, 115 NH 655 (1975), which discusses the distance issue as it pertains to the right to challenge the matter before the State Board. The Supreme Court found that there was no requirement in the Statute that the State Board of Education approve the route when students are being asked to walk less than a mile. However, in this case, the issue also involves the safety of the bus stop (as opposed to the route). RSA 189:8 requires that the school bus stop be established in a safe location and that school districts assure that this occurs (In addition to assuring that pupils walking more than one mile not be subject to unsafe conditions while walking). The School Board's Motion to Dismiss is granted to the extent that the Parent is requesting a bus stop at the presently requested location. However, the dismissal is without prejudice should the Parent request that the bus stop in question be moved to a location other than the requested one because it is unsafe. Whether the School Board determines to move the bus stop to a different location than that requested by the Parent, remains to be seen. However, the Hearing Officer disagrees with the School Board's contention that no parent would have the right to challenge the safety of a particular bus stop. As such, the Motion to Dismiss is granted without prejudice. The scheduled hearing is cancelled.

**SO ORDERED:**

Dated: February 3, 2011

By:

  
John P. LeBrun, Esquire  
Hearing Officer