

New Hampshire Board of Education

Student/Contoocook Valley Regional School District

SB-FY-13-01-002 & SB-FY-13-01-003

Hearing Officer Report and Recommendation

Report

This case involves a request by a parent (the mother) to provide transportation to her two sons. The parent is divorced and the father has legal custody of the sons for school purposes. The father lives in Peterborough and the students are assigned to attend the Peterborough Elementary School. The mother lives in Temple which is in the same school district, but a different town about 8 miles away.

The sons stay with the mother for certain periods of time (the exact amount of time is not yet clear in the record as there has not yet been a hearing). The mother is asking the Peterborough Elementary School to provide transportation for her sons when they are staying with her.

Last year the Peterborough Elementary School was able to accommodate the mother's request to some extent. The school's position is that they have no legal obligation to provide transportation, but will do so when they have a bus route by the mother's house. Apparently there is a student that attends Peterborough Elementary School that resides in Temple not too far from the mother's house.

The mother thought there was a similar arrangement in place for this 2012-2013 school year, but apparently things have not worked out that way and there have been times when transportation was not provided. The mother has attempted to clarify the transportation issues through emails and phone calls with the school. She requested to appear before the local school board as well.

The school board did not meet with the mother, but did consider her request and submitted a letter to her on November 29, 2012. See Exhibit B of the School District's Response to Appeal. The letter essentially says that the school will provide transportation when the bus that is providing transportation to the other student is available and no more. After the mother received this letter, she requested a meeting with the board under Ed 204.1.

After she did not hear from the board, she filed a request for a hearing with the State Board of Education on January 15, 2013.

The parties held a pre-hearing and after that pre-hearing, the school filed a motion to remand to the local school board stating that based on the advice of counsel the school board is willing to accept a remand to hold a hearing under Ed 204.1.

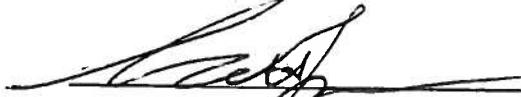
Recommendation

I recommend that the State Board remand the matter back to the local school board. The delay in the local board's action is a concern and given the school's position at the prehearing it does not seem likely

that the school board will change its position from the decision in the November 29, 2012 letter. However, remanding the matter will give the local school board a chance to hear evidence that it may not have had available to it when it issued the November 29, 2012 letter and it will give the parties a chance to resolve the matter at the local level.

2/27/13

Date



Scott F. Johnson
Hearing Officer

New Hampshire Board of Education

Student/Contoocook Valley Regional School District

SB-FY-13-04-008

Hearing Officer Report and Recommendation

Overview

This case involves a request by a parent (the mother) to provide transportation to her two sons. The parents are divorced and the father has legal custody of the children for school purposes. The father lives in Peterborough and the students are assigned to attend the Peterborough Elementary School. The mother lives in Temple which is in the same school district, but outside the attendance area for Peterborough Elementary School.

The State Board previously remanded this matter back to the local school board at the local school board's request. See SB-FY-13-01-002 & SB-FY-13-01-003. The local school board conducted a hearing and after that hearing agreed to continue to provide transportation to the children under certain conditions. See April 12, 2013 Letter to Parent from School Board Chairman attached to this Report and Recommendation. The conditions are essentially that the children can ride a bus that is sent to Temple to transport special education students. The mother contends that the result of that condition is that there are times where transportation is not provided to the parent's children because there are times when the bus is not scheduled for the special education students.

The parent appeals the local school board's decision and asks the State Board to order the local school board to provide her children with transportation to Peterborough Elementary School on a regular, daily basis with no conditions or dependence on scheduling for other students. She asks that the State School Board's order apply to future school years as well, so that she does not have to continuously deal with this issue.

Because state law does not require the local school district to transport students outside of the attendance area of a school (absent circumstances not present in this case), I recommend that the State Board uphold the local school board's decision.

Findings of Fact

1. The mother and father of the two students in this case are divorced.
2. The father has legal custody of the students for school purposes. The father lives in Peterborough.
3. The school district has established attendance areas for the schools within its district. Each elementary school in the district maintains an attendance area. Students are assigned to attend a school within their attendance area.

4. The two students in this case are assigned to attend Peterborough Elementary School.
5. The mother lives in Temple which is in the school district, but a different town about 8 miles away from Peterborough Elementary School.
6. The students stay with the mother in Temple for certain periods of time during the school year.
7. When the students are staying with their mother in Temple, they are outside of the attendance area for Peterborough Elementary School.
8. The mother is asking the school district to provide transportation for her sons from Temple to the Peterborough Elementary School when the two students are staying with her.
9. Last school year (2011-2012) and this school year (2012-2013), the district was able to accommodate the mother's request to some extent.
10. There are one or more students that attend Peterborough Elementary School that reside in Temple not too far from the mother's house. These students receive transportation from Temple to Peterborough Elementary School as part of their special education requirements. The school has agreed to allow the two students in this case to ride this bus when it transports the special education students to and from Temple.
11. This arrangement has proven unsatisfactory for the mother. She contends the scheduling has been undependable and that there have been times when she was informed at the last minute that her children will not be transported because the scheduled bus was cancelled for that day, or for that trip. Cancellation occurs when the special education students who are being provided transportation do not require it for that day, or for that trip.
12. On April 2, 2013, the parent met with the local school district to address these transportation issues.
13. On April 9, 2013 the local school board made a decision that is explained in an April 12, 2013 letter from the local school board chair to the mother. See April 12, 2013 Letter to Parent from School Board Chairman attached to this Report and Recommendation.
14. The April 12 2013 school board letter to the mother states that the Board voted to affirm its decision to allow the students to continue to ride the specialized transportation bus between Temple and Peterborough Elementary School. See April 12, 2013 Letter to Parent from School Board Chairman attached to this Report and Recommendation.
15. The April 12 2013 school board letter also tries to address the dependability issues that the mother noted by making the scheduling more certain and giving more advance notice to the mother. See April 12, 2013 Letter to Parent from School Board Chairman attached to this Report and Recommendation.

16. The parent wants the school to transport her children on a regular basis without reliance on the schedules of the other special education students.

Rulings of Law

1. RSA 189:6 states “ The local school district shall furnish transportation to all pupils in grade 1 through grade 8 who live more than 2 miles from the school to which they are assigned. The local school board may furnish transportation to kindergarten pupils, pupils in grades above the eighth or to any pupils residing less than 2 miles from the school to which they are assigned, when it finds that this is appropriate, and shall furnish it when so directed by the commissioner of education.”
2. Absent special education requirements, or other circumstances not present in this case, state law does not require a school district to transport a student who resides outside of the attendance area of a school.

Recommendation

I recommend that the State Board uphold the local school board’s decision.

Date

Scott F. Johnson
Hearing Officer