

IOWA STATE DEPARTMENT
OF PUBLIC INSTRUCTION

In re Vivian Northrup

Mrs. Vivian Northrup, Appellant

v.

Area Education Agency 10, Appellee

DECISION

[Admin. Doc. 466]

The above entitled matter was heard before a hearing panel consisting of Dr. Robert Benton, state superintendent and presiding officer; Mr. Dwight Carlson, director, school transportation and safety education; and Mr. Gayle Obrecht, director, administration and finance. Area Education Agency 10 (hereinafter AEA) was represented by Administrator Dwight Bode and Director of Educational Services, Dr. John Cordes; the Cedar Rapids Community School District (hereinafter District) was represented by Board Secretary Otto Weidersberg and District Director of Transportation Joe Kaider; and Vivian Northrup represented herself. The hearing was held pursuant to Section 285.12, The Code 1977 and Chapter 670--51, Iowa Administrative Code. Mrs. Northrup appealed a decision of the AEA Board of Directors which affirmed the District Board's refusal to provide school bus transportation for her children. Mrs. Northrup agreed to waive her statutory right to a hearing within 15 days of the filing of the record pending Dr. Benton's availability to sit as presiding officer.

I.

Findings of Fact

The Hearing Panel finds that it and the State Board of Public Instruction have jurisdiction over the parties and the subject matter.

The Appellant's family, including two children of elementary age, have resided for six years in an area of the District which has not been fully developed for residential housing. While numerous homes have been built in the area, large tracts of land remain in agricultural production and pasture. Such an undeveloped tract lies directly between the Northrup residence and Andrew Jackson Elementary School, requiring that the Northrup children either cross the tract on foot or take one of two walking routes along the streets located on the perimeter of the tract. According to Mrs. Northrup, the children seldom take the shortcut across the tract in inclement weather. The distance from the Northrup residence to Jackson School, the shortest perimeter route, is about eight-tenths of a mile and the longer is about nine-tenths of a mile. A private firm which formerly provided transportation to school children in the neighborhood has recently ceased operation in the area.

Both of the two perimeter routes the children take are partially along busy roadways. About the first third of both routes is along the shoulder of State Highway 94. While Highway 94 is heavily traveled, the shoulder is wide and gravelled. The second third of the shortest route is along a traffic feeder street, (Wiley Boulevard) which the Appellant said is known to be frequented by "young speeders." The second third of the longest route is on a gravel pathway adjacent to a busy four-lane street, (Edgewood Road). Only the third of the routes closest to the school are located in a residential area with sidewalks. The Northrup children do not have to cross the busier streets in order to get to school.

In a letter to the District Board dated September 18, 1978, Mrs. Northrup complained of what she considered dangerous walking conditions for her children. At the September 25 District Board meeting, her concern of the hazardous walking conditions was reviewed by the District Board, and the Board refused to grant Mrs. Northrup an exception to the District policy regarding transportation of elementary students residing less than two miles from the school. District policy provides that elementary students residing less than two miles from the school of attendance will not be provided transportation unless the District is directed by the AEA to provide transportation. (Presumably, this directive would come in the form of an appeal decision such as is at issue here.) District policy also provides for payment by the parent of pro rata cost for students so transported.

In a letter dated September 29, Mrs. Northrup appealed the District Board decision to the AEA Board of Directors under Section 285.12. On October 16 and November 6, the AEA Board held a hearing on the issue. Following the hearing and deliberation on the matter, a motion was made to find that the school routes of Mrs. Northrup's children were hazardous and to direct the District to provide transportation. The motion lost on a vote of five to three.

Mrs. Northrup made a timely appeal of the decision to the State Superintendent of Public Instruction. As part of the record in the hearing before the Hearing Panel, the Panel made an on-site inspection of the routes available to the Northrup children.

II.

Conclusions of Law

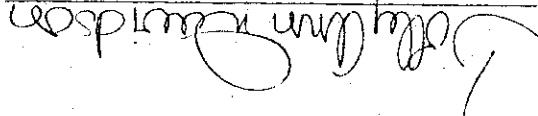
There are no pressing issues of law present in this appeal. A school board of directors has discretionary authority to provide bus transportation to elementary school children who reside less than two miles from school. See Section 285.1. The single issue is whether the Northrup children's route to school is so inherently hazardous as to require us to overturn the AEA Board's decision affirming the District Board's refusal to provide bus transportation. While we do recognize that less than ideal conditions for pedestrian travel exist for the Northrup children, we do not find the circumstances so inherently hazardous as to justify overturning the AEA Board of Directors in this matter. If the Northrup children exercise common safety precautions, there is no reason to believe that they will not continue to go to and from school in a safe manner as they have in the past.

It is not only school attendance which requires the children to walk adjacent to busy streets. Whenever the Northrup children venture from their residence to visit friends, run errands or participate in recreation activities, they invariably must walk much of the same route as they do to get to school.

III.
Decision

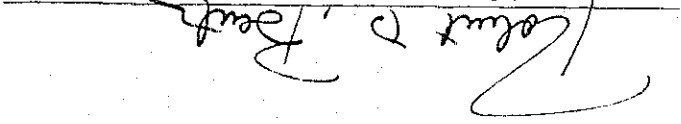
The decision of the Area Education Agency 10 Board of Directors affirming the decision of the Cedar Rapids Community School District Board of Directors in regard to the transportation of the Northrup children is hereby affirmed.

JOLLY ANN DAVIDSON, PRESIDENT
STATE BOARD OF PUBLIC INSTRUCTION



December 15, 1978
DATE

ROBERT D. BENTON, Ed.D.
STATE SUPERINTENDENT OF PUBLIC INSTRUCTION
AND
PRESIDING OFFICER



December 14, 1978
DATE