

Supreme Court Affirms Ruling That School District Has Duty To Transport Student To And From Father's And Mother's Separate Residences Within School District

Articles September 24, 2015

Watts v. Manheim Township School District, 112 MAP 2014 (Pa. 2015). The Pennsylvania Supreme Court affirmed an earlier ruling of the Commonwealth Court that, when a school district provides transportation, it must transport a student to and from both parents' residences located within the school district.

Summary Background

The divorced parents of a student share equally divided legal and physical custody of that child on an alternating week basis pursuant to a court order. Both parents reside within the Manheim Township School District where the student attends middle school. Father's residence is located one and nine-tenths miles from Mother's residence.

In an effort to reduce transportation costs, the school district implemented a policy that eliminated the transportation of students to and from multiple locations. The modification to the school district's transportation policy affected 400 students and resulted in savings of approximately \$200,000 per year. Pursuant to this policy, the school district informed the father that it would no longer transport the student to and from the father's home, but that it would continue to transport the student to and from the mother's residence.

The father filed a complaint seeking injunctive relief to require the school district to provide transportation to and from both residences. The trial court granted the requested injunction and ordered the school district to continue bussing services to the father's residence. The school district appealed the decision to the Commonwealth Court, which affirmed the lower court's order. (The Commonwealth Court decision was summarized in Volume XXV, Number 4 (2014) of the *Education Law Report*). On further appeal, the Pennsylvania Supreme Court affirmed the ruling.

Discussion

On appeal, the school district argued that the student could not have more than one residence under the School Code as a matter of law and, therefore, it properly limited transportation services to and from one home. Alternatively, the school district argued that, even if a student may have more than one residence under the School Code, the school district has the discretion to limit a student's transportation to and from only one of the residences. The Supreme Court rejected both of these arguments.

Section 1361(1) of the School Code states that a student shall receive transportation "to and from" school. By using the language "to and from" school, Section 1361(1) does not state where the transportation begins and where it ends. Because the duty to transport the student is triggered by his status as a residence within the school district, the court concluded that when a school district elects to provide transportation pursuant to Section 1361(1), the origination and termination point for the transportation necessarily is the student's residence.

(In this regard, the court noted that, while this portion of the statute could be construed to mandate transportation to and from school to wherever a student or his parent desires, whether this be another residence, daycare, or the front of the corner store, it would be illogical to hold that the transportation must be provided to and from some location other than the

student's residence. Thus, such transportation is not mandated by Section 1361(1), although a school district has the discretion to provide transportation to locations other than a residence).

Having determined that Section 1361(1) transportation begins and ends at a student's residence, the court next analyzed whether a student may have more than one residence. In consideration of regulations and case law that recognized that a student whose parents reside in different school districts entitle the child to attend school in either school district, the court concluded that students may have two residences for purposes of the School Code.

The court noted that the school district's policy would require the student, when residing with the father, to walk 1.9 miles to a bus stop near the mother's home to access the transportation, which exceeded the limitation of Section 1362 on the allowable walking distance between a student's home and bus stop.

For these reasons, the court concluded that the School District must provide transportation from and to both mother's and father's residences because: (1) when the School District elected to provide transportation to students' residences under Section 1361(1), it was required to do so to the student's residence; (2) the student has two residences by virtue of his parents' equally shared physical custody; (3) there is no provision requiring parents to choose a residence for transportation purposes (in contrast to enrollment); and (4) students cannot be required to travel more than 1 ½ miles from their residence to the bus stop.

Practical Advice

The Supreme Court's decision in *Watts* definitively establishes that, whenever transportation services are provided and a student's parents maintain separate residences within the same school district, the school district must provide transportation services to and from both parents' homes.

Conversely, the court's opinion makes clear that school districts are not required to provide transportation services to and from locations other than student's residence, such as a day care or another person's home. Although some school districts offer such transportation options to families, the provision of such alternative services are optional and may be limited at the discretion of the school district.

For additional information, contact Matthew Hoffman at mhoffman@tuckerlaw.com