

Court of Common Pleas Denies Challenge To School District's Policy of Providing Charter School Students With Bus Passes

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Bell et al. v. Wilkesburg School District, GD No. 18-012950 (Allegheny Cty. June 27, 2019). The Court of Common Pleas of Allegheny County ruled that a school district's provision of public transit bus passes to elementary students attending charter schools fulfills the Charter School Law transportation requirements.

BACKGROUND

For the 2018-2019 school year, the Wilkesburg School District ("District") began providing student transportation to and from charter schools, including those attending various charter schools operated by Propel Schools (collectively, "Propel"), via the provision of passes upon a common carrier, specifically, Port Authority of Allegheny County ("PAT") buses. In prior years, such charter school students were transported via school buses.

Propel and an individual whose child attends the Propel schools ("Plaintiffs") challenged this arrangement by filing a lawsuit in the Court of Common Pleas of Allegheny County and arguing, among other things, that the provision of PAT bus passes to elementary students in grades K through 5 attending Propel Schools does not comply with the District's obligation to provide "free transportation" to charter school students. (Plaintiffs did not challenge the provision of bus passes to older students).

At the conclusion of a non-jury trial, the Court of Common Pleas of Allegheny County issued a decision stating that Plaintiff's failed to establish that the District violated the law by not providing private bus transportation to resident elementary students attending Propel schools. The decision has been appealed to the Commonwealth Court.

DISCUSSION

Section 1726-A of the Charter School Law provides that certain students who attend charter schools "shall be provided *free transportation* to the charter school by their school district of residence . . ." 24 P.S. § 17-1726-A(a) (emphasis added). Section 1362 of the School Code, in turn, provides, in relevant part:

free transportation of pupils, as required or authorized by this act, or any other act, *may be furnished by using either school conveyances, private conveyances, or electric railways, or other common carriers*, when the total distance which any pupil must travel by the public highway to or from school, in addition to such transportation, does not exceed one and one-half (1 1/2) miles, and when stations or other proper shelters are provided for the use of such pupils where needed, and when the highway, road, or traffic conditions are not such that walking constitutes a hazard to the safety of the child, as so certified by the Department of Transportation.

24 P.S. § 13-1362 (emphasis added).

The Commonwealth Court has held that because both of these statutory provisions address the subject of student transportation, "they are *in pari materia* and are to be construed accordingly." *Hoffman v. Steel Valley Sch. Dist.*, 107 A.3d 288, 295 (Pa. Cmmw. 2015).

Accordingly, school districts have the discretion to provide free transportation “by utilizing any of the four methods listed therein [school conveyances, private conveyances, electric railways or common carriers], as long as the total distance which any pupil must travel by public highway to or from school, in addition to such transportation method, does not exceed one and one half (1 ½) miles; there are ... shelters for the use of such pupils where needed; and there is not a safety hazard to the pupil, as so certified by the Department of Transportation.” *Hoffman v. Steel Valley Sch. Dist.*, GD 14-2899 (Trial Court Opinion, p. 7); quoted in *Hoffman v. Steel Valley Sch. Dist.*, 107 A.3d 288, 292 (Pa. Commw. 2015).

The court’s ruling in favor of the school district indicates that the District’s provision of PAT bus passes to charter school students fulfilled the District’s obligation under the Charter School Law to provide transportation to such students. In reaching this decision, the court rejected other, non-statutory factors raised by the Plaintiffs, including the age of the students, the duration of the bus ride, whether the transportation routes required transfers between buses, whether the transportation provided to charter school students is identical to that provided District students, whether the Department of Education “approved” the transportation in advance and whether PAT bus driver training is identical to school bus driver training.

CONCLUSION

The *Bell* decision is important because the Court of Common Pleas of Allegheny County has confirmed that school districts may provide free transportation to resident students attending charter schools if they comply with the requirements set forth in Section 1362 of the Pennsylvania School Code. Critically, the court’s decision confirms that other, non-statutory factors are irrelevant in determining whether the District is complying with the requirements of the Charter School Law and School Code.

Districts providing transportation to resident students attending charter schools should review this case and any subsequent appellate court decisions carefully so that they can make informed decisions when determining the best method to provide free transportation to charter school students.

For additional information contact Chris Voltz.