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TRANSPORTATION SERVICES CAN BE REQUIRED FROM TWO DIFFERENT RESIDENCES

The Supreme Court of Pennsylvania recently agreed to review the questions of (1) does the Public School Code of 1949 require school districts to provide transportation services to a resident pupil to and from more than one location within the school district and (2) can a child have more than one residence for the purposes of transportation services under Section 1361 of the Public School Code of 1949. On August 26, 2015, in *Watts v. Manheim Twp. School Dist.*, the court issued its decision, answering yes to both questions.

In this case, the school district had been attempting to limit all students' transportation services by designating only one residence per student from which to provide transportation to and from school, even when a child's parents lived separately but both within the school district's boundaries. The school district elected to provide transportation to its students; therefore, it did not contest that it was required to provide this student transportation. Instead, it contested that it was required to provide transportation services to and from more than one parent's residence, whereas the parents wanted transportation services to be provided from both parents' residences per their custody arrangement.

The relevant section of the school code states that "[t]he board of school directors in any school district may...provide for the free transportation of any pupil to and from the...school in which he is lawfully enrolled..." 24 P.S. § 13-1361(1). The court noted that this section is silent as to where the transportation begins and ends; thus, it could be construed that transportation is required to and from wherever a student or parent so desires, be it a residence, daycare or store. However, the court found that it would be illogical to hold that transportation would be from some other location than the student's residence. The court reasoned that (1) because the duty to transport is triggered by status as a resident and (2) because Section 13-1366 of the school code specifically contemplates calculating distances "between the residence of any pupil and any public school attended by him" and references computing the distance between the student's "dwelling house" and the public road, the school code intends for the origination and termination point for the transportation to be the student's residence.

While the court recognized that the language of the school code used the singular form of "residence," it found that it was not dispositive. Rather, the court looked to the provisions of the school code addressing enrollment for guidance. Specifically, the court examined Section 11.11(a)(1), which recognizes that a student can be considered to have two residences when the parents do not reside together but have shared physical custody of the student, Section 13-1327(a), which requires compulsory school attendance, and Section 13-1330(5), which provides an exception to compulsory school attendance if the school district does not provide transportation services and the student resides a certain distance from the nearest public highway.

Based upon the analysis of all of these provisions of the school code, the court concluded that where the parents share legal and physical custody and both reside in the school district, and where the distance between one parent's residence and the bus stop at the other parent's residence is greater than what is permissible to require the student to walk to the bus stop pursuant to Section 13-1362, transportation services must be provided to and from both residences in order to further the goal of compulsory attendance.

Therefore, school districts need to be mindful of the varying transportation needs of students with more than one residence.

Clients who have questions regarding issues discussed in this article, or any education law matter, should feel free to call us at 215-345-9111.

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