
CHARTER SCHOOLS - PENNSYLVANIA

Bell v. Wilkinsburg School District

Supreme Court of Pennsylvania - September 29, 2022 - A.3d - 2022 WL 4541536

Operator of public charter schools, and grandmother of two charter school students, jointly filed lawsuit against school district seeking declarative and injunctive relief challenging district's decision changing mode of transportation for charter school students from school buses to public transportation through issuance of free passes.

The Court of Common Pleas dismissed complaint following nonjury trial. The Commonwealth Court reversed and remanded for entry in favor of charter school operator. Allowance of appeal was granted.

The Supreme Court held that:

- Regulation governing Department of Education's approval of school district's transportation plan was ambiguous, and
- Regulation did not obligate school district to obtain Department of Education's approval of transportation plan prior to implementing plan.

Department of Education regulation, which provided that a school district's means of student transportation to and from school "shall be subject to approval by the Department," was ambiguous since regulation did not unambiguously resolve question of when Department was required to approve a change in a school district's transportation plan in suit by charter school operator and grandparent of charter school students challenging district's decision to change charter school student's mode of transportation from bussing to public transportation; charter school operator contended plan must be approved before implementation, district contended Department approved plans after implementation Department decision on whether to reimburse district, and both constructions were reasonable.

Regulation governing approval of school district student transportation plans by Department of Education does not impose a requirement of prior approval, rather, the Department's remedy, if it concludes a transportation plan does not comport with the requirements of the School Code or applicable regulations, is limited to withholding financial reimbursement from the school district for the costs it incurred in implementing the transportation plan.

Regulation did not obligate school district to first obtain approval from Department of Education as to its transportation plan prior to implementing the plan, which changed mode of transportation for charter school students from school buses to public transportation through issuance of free passes; evidence showed that Department, historically, had not required school districts to seek approval prior to implementing a transportation plan, Department repealed previous regulation requiring prior approval, no other sections in same title required prior Department approval of transportation plans, and matters regarding the perceived safety advantages of transporting students by school bus over common carrier involved policy judgments reserved for General Assembly.

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