

TO: OAIS Heads of School
From: Dan Dodd, Executive Director of OAIS

For families that attend OAIS schools and depend on bus transportation, it is crucial that they know their rights and invoke those rights should a district notify them that their transportation will be eliminated. Below is an explanation of how the process for eliminating transportation based on impracticality works, and what rights parents have in the process.

- A. [3327.02 (A)] After considering each of the following factors, the board of education of a city, exempted village, or local school district, or a community school governing authority providing transportation pursuant to section 3314.091 of the Revised Code, may determine that it is impractical to transport a pupil who is eligible for transportation to and from a school under section 3327.01 of the Revised Code:
 1. The time and distance required to provide the transportation;
 2. The number of pupils to be transported;
 3. The cost of providing transportation in terms of equipment, maintenance, personnel, and administration;
 4. Whether similar or equivalent service is provided to other pupils eligible for transportation;
 5. Whether and to what extent the additional service unavoidably disrupts current transportation schedules;
 6. Whether other reimbursable types of transportation are available.
- B. [3327.02(C)] After passing the resolution declaring the impracticality of transportation, the district board or governing authority shall offer to provide payment in lieu of transportation by doing the following:
 1. In accordance with guidelines established by the department of education, informing the pupil's parent, guardian, or other person in charge of the pupil of both of the following:
 - a. The resolution;
 - b. **The right of the pupil's parent, guardian, or other person in charge of the pupil to accept the offer of payment in lieu of transportation or to reject the offer and instead request the department to initiate mediation procedures.**
 - c. Issuing the pupil's parent, guardian, or other person in charge of the pupil a contract or other form on which the parent, guardian, or other person in charge of the pupil is given option to accept or reject the board's offer of payment in lieu of transportation.
- C. [3327.02(E)]
 1. (a) **Upon the request of a parent, guardian, or other person in charge of the pupil who rejected the payment in lieu of transportation, the department shall conduct mediation procedures.**
 2. (b) If the mediation does not resolve the dispute, the state board of education shall conduct a hearing in accordance with Chapter 119. of the Revised Code. The state board may approve the payment in lieu of transportation or may order the district board of education or governing authority to provide transportation. The decision of the state board is binding in subsequent years and on future parties in interest provided the facts of the determination remain comparable.
- D. [3327.02(E)(2)] **The school district or governing authority shall provide transportation for the pupil from the time the parent, guardian, or other person in charge of the pupil requests mediation until the matter is resolved under division (E)(1)(a) or (b) of this section.**

I put a few provisions in bold text because it is very, very important for your parents to understand this if they need bus transportation. These are their rights under current law and bus transportation cannot be cut off until:

- The school district completes the six-part test in section A;
- Should a parent request mediation (which they should), ODE must appoint a hearing officer to mediate between the parents and the district;
- Should either the parent or the district object to the mediation, the State Board of Education makes a decision
- **Most importantly, transportation may not be discontinued to the family until this entire process has been completed**

I personally would be surprised if fewer than 100 districts sought to discontinue transportation to at least some nonpublic school students. The actual number may be significantly higher depending on what rural school districts seek to do. Given the geographic locations of most of our schools, I would expect a substantial number (if not a majority) of suburban and city school districts to at least consider ending transportation for nonpublic school students. As districts initiate this process, I can promise you that many of them will not fully inform parents of their rights under the Revised Code.

I would strongly recommend that you contact your parents who currently utilize bus transportation and ask them to immediately contact the school if they receive notice from their school district regarding the discontinuation of bus transportation. Please note that the district is not required to notify the nonpublic school about discontinuing transportation, only the parents. Parents should not sign away their right to mediation if they receive notice and should not immediately agree to a payment-in-lieu offered by the district. If they need busing to get their children to school, they should also insist that the transportation continue during the mediation process.

Considering how the process works with the use of a hearing officer for mediation, plus the requirement of the State Board of Education hearing the appeal of the party that disagrees with the decision of the hearing officer, neither ODE nor the State Board are equipped to handle the number of appeals that could result from a massive increase in impracticality declarations. Because the statute requires transportation to be offered until the State Board has made a decision, it could be many months before a case is finally settled.

School districts tend to try and move these matters quickly and get quick resolutions so they never have to begin the bus transportation. Again, I urge you to make sure that your parents know their rights under Ohio law.

Please let me know if you have any questions.

Dan

Dan Dodd
Executive Director
Ohio Association of Independent Schools
740-973-5930
dandodd@oais.org