August 7, 2020

Xxx

Address

Re: Nonpublic School Transportation

Dear Xxx:

ACSI is a worldwide organization of Christian Schools, including \_\_[#] member schools in Pennsylvania. \_\_[School Name]\_\_ has contacted us and asked that we communicate with your District regarding its plans to provide transportation for students who reside in your District who are attending this school.

We understand that the schools in your District have been notified of the various limitations and restrictions that will be imposed by your District regarding the transportation options for these students, including *inter alia*:

* refusal to provide transportation on days when the nonpublic schools are in session but District schools are not (but rather are operating online);
* limiting the number of students being transported to 50% of bus capacity (rather than offering additional buses);
* restricting transportation to certain days each week for a portion of the eligible students; and
* requiring nonpublic school students to board their buses prior to the end of their school day (thus depriving them of instructional time).

Section 1361 of the Public School Code (24 P.S. §13-1361) prescribes the obligations of public school districts with respect to the transportation of nonpublic school students. That Section states, in pertinent part:

24 P.S. § 13-1361

**§ 13-1361. When provided**

(1) The board of school directors in any school district may, out of the funds of the district, provide for the free transportation of any resident pupil to and from the kindergarten, elementary school, or secondary school in which he is lawfully enrolled, provided that such school is not operated for profit and is located within the district boundaries or outside the district boundaries at a distance not exceeding ten miles by the nearest public highway, except that such ten-mile limit shall not apply to area career and technical schools which regularly serve eligible district pupils or to special schools and

classes approved by the Department of Education, and to and from any points within or without the Commonwealth in order to provide field trips for any purpose connected with the educational pursuits of the pupils. **When provision is made by a board of school directors for the transportation of public school pupils to and from such schools** or to and from any points within or without the Commonwealth in order to provide field trips as herein provided, **the board of school directors shall also make identical provision for the free transportation of pupils who regularly attend nonpublic kindergarten, elementary and high schools not operated for profit to and from such schools** or to and from any points within or without the Commonwealth in order to provide field trips as herein provided**. Such transportation of pupils attending nonpublic schools shall be provided during regular school hours on such dates and periods that the nonpublic school not operated for profit is in regular session, according to the school calendar officially adopted by the directors of the same in accordance with provisions of law.** The board of school directors shall provide such transportation whenever so required by any of the provisions of this act or of any other act of Assembly. (Emphasis supplied).

Each of the schools in question is entitled to establish its own regular school calendar, irrespective of the calendar adopted by the \_\_[Name of]\_\_ District. Once the nonpublic school calendars are established, §1361 of the School Code obligates the District to defer to those calendars in making transportation arrangements.

The arrangements currently proposed by your District do not meet its obligations under 24 P.S. §13-1361 and are not acceptable to these nonpublic schools.

These schools are willing to work on a collaborative basis with the District during a difficult period, but the current proposed arrangements are too burdensome, too discriminatory, too impractical and altogether out of compliance with controlling law.

The opening of the school year is rapidly approaching. If litigation is to be avoided, it is imperative that the schools and the District immediately enter into substantive discussions regarding appropriate transportation arrangements.

Sincerely,

Philip Scott, Esq.

Senior Counsel for Policy and Advocacy