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Illinois Appeals Court Limits School District's Obligation to Provide Transportation to Parochial School Students

On June 18, 2012, the Illinois Fifth District Appellate Court ruled that the Illinois School Code does not require a public school district to provide transportation to parochial and charter school students on days that public schools are not in session. In *C.E. and C.L. v. Board of Education of East St. Louis School Dist. 189, et. al.*, 2012 IL App (5th) 110390, the Court was asked to decide if Section 29-4 of the School Code required the East St. Louis School District to provide transportation to students attending parochial and charter schools which extended their school years to include 15 days when the public schools were closed. The plaintiffs, parochial school students and their parents, argued that language in the Code requiring school boards to provide free transportation to parochial and charter school students "on the same basis" as

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public school students, meant that the public school district had to provide transportation whenever the charter and parochial schools were in session. The Appellate Court disagreed.

Even though the Appellate Court was conscious of the "failing state" of the public school district in question and sympathetic to the circumstances facing parents of children "who certainly deserve access to quality education," it interpreted the language in Section 29-4 of the School Code requiring that transportation be provided "*on the same basis*" as public school students to mean that parochial and charter school students were not entitled to any more transportation than public school students. Therefore, on days that transportation is not provided to public school students, the district is not obligated to provide it to parochial and charter school students. The Court noted that any other interpretation of the Code would ignore the intent of the Legislature to make transportation equally accessible to nonpublic school students and to provide them with transportation without unduly increasing the costs to the public school district.

This is an important decision which limits the obligation of public schools to provide transportation to charter and private

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school students.

If we can be of further assistance, please contact one of our attorneys in our Flossmoor office – (708) 799-6766 or in our Oak Brook office – (630) 928-1200.