



Sylvania parochial-school parents refile bus lawsuit, seek class status



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Parents of several Sylvania parochial-school students have filed a new version of a lawsuit accusing the Sylvania Board of Education of providing inferior bus transportation for their children, this time entirely under state law and applying for class-action status.

As was true of a suit they filed last month in Lucas County Common Pleas Court, the parents' complaint filed Friday alleges that by requiring grade-school students at Sylvania St. Joseph and several other schools to ride to district high schools and board connecting buses to reach their own schools violates Ohio law and discriminates against religious practice as protected by the state constitution.

The new version, however, omits any reference to the U.S. Constitution, which would appear to thwart any effort by the school board to transfer the case to federal court, as it did before.

The Ohio Constitution provides "as much and, in many instances here, more protections than the federal Constitution does" and omitting a federal claim "avoids a jurisdictional gray area" that could delay the eventual outcome, said Andrew Mayle, a Perrysburg lawyer representing the complainants, Jennifer Swiech and James and Nicole Vanderweele.

The refiled lawsuit also refers to a district memorandum, dated Sept. 1, that states: "We have some drivers with empty routes. We will find something for you to do."


"This doesn't jive with their claim that they don't have enough drivers," Mr. Mayle said. "It is dated September 1, several weeks into the school year."

School district officials were not immediately available for comment Friday afternoon.

District officials said in August that the reason behind requiring parochial students to ride buses to either of Sylvania's high schools to make connections was that the district had a driver shortage and thus could not staff district-wide routes serving the nonpublic schools. While Catholic and public school students didn't have an identical transportation plan, they said that didn't make the difference unfair.


Ohio law requires school districts to provide transportation for all students in kindergarten through eighth grade, regardless of whether they attend public or private school, with such transportation paid for with federal funds or, if federal funding is not available, state funds.

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The lawsuit also notes that state law does not require districts to provide transportation either for high school students or preschoolers, while the Sylvania district is providing that service.

Lucas County Common Pleas Judge Stacy Cook, in early August, set an Aug. 26 deadline for the school district to devise a fairer transportation plan for the nonpublic grade schoolers, agreeing with the parents that requiring young children to wake up early enough to catch a high-school bus and then ride with the older children was inappropriate.

Citing the original lawsuit's claim for relief under the U.S. Constitution, however, the school district, on Aug. 24, filed a notice of removal to transfer the case to federal court. The plaintiffs then dropped the original

lawsuit Aug. 30, with lawyer Andrew Mayle saying at the time a new complaint would be refiled within a few weeks.

The new filing seeks class-action certification on the grounds that parents of students attending Sylvania Saint Joseph, Christ the King, and Saint Benedict students who live within the Sylvania district are easily identifiable as a class, involving more than 100 students who “regularly otherwise would ride the bus and are negatively affected by the challenged transportation plan.

“The class is so numerous that joinder of all members is impractical,” the suit states. “Further, individual parents, guardians, and families lack the resources to adequately protect their interests on an individualized basis to the nature of the legal challenges and appropriate injunctive relief.”

The original lawsuit version also included Jeffrey Swiech as a plaintiff; Mr. Mayle said Mr. Swiech was omitted this time for technical reasons because of the new lawsuit’s class-action nature.

Mr. Mayle said the affected students are currently riding buses to a “mixed” degree under the district’s bus plan, with parents trying “to the extent they can” to avoid subjecting their children to the early waking hours and extended travel times that plan entails.

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