



February 27, 2020

MEMORANDUM

To: Members of the Board of Education

From: Michael J. Martirano, Ed.D.
Superintendent

Re: Parochial School Bus Service

The purpose of this memorandum is provide background information as requested by the Board on the history and administration of “same service” school bus transportation for parochial school students by the Howard County Public School System.

Legal Framework

The Howard County Code of Ordinances, has two sections that address school bus transportation to parochial schools. The first ordinance, Title 9, Section 9.100 School buses; parochial schools, states:

All children who attend parochial schools in Howard County, which schools do not receive State aid, and who reside on or along or near to the public highways of Howard County, on which there is now or hereafter operated a public school bus or conveyance provided by the Board of Education of Howard County for transporting children to and from the public schools of Howard County, shall be entitled to transportation on the said buses or conveyances, subject to the conditions hereinafter set forth, from a point on the said public highways nearest or most accessible to their respective homes to a point on said public highways nearest or most accessible to their respective schools, without changing the routes of said buses or conveyances now or hereafter established by said Board of Education of Howard County for transporting children to and from the public schools. Such transportation may be provided by the Board of Education, as aforesaid, for all the children attending schools described herein, upon the same terms and conditions as now or as may be hereafter established by the Board of Education of Howard County for children attending public schools.

(1943, Ch. 648, § 291A)

The second ordinance, Sec. 9.101. Same conditions states:

The County Council of Howard County is hereby authorized to appropriate annually to the Board of Education of Howard County, from any funds received by said Howard County for any general County purpose and not derived from any tax levied on real property, such sum as the said Board of Education may request to enable it to defray any costs incurred by it in carrying into effect the provisions of [section 9.100](#) and to establish new bus routes, in the discretion of the Board of Education of Howard County, for the transportation to and from school of children attending schools not receiving State aid. The transportation of children to and from schools not receiving State aid shall be upon such reasonable terms and conditions as the Board of Education may from time to time determine, but in no event shall the amount charged children attending such schools for using buses or conveyances be greater or less than the amount charged children attending the public schools for the same kind of transportation.

(1943, Ch. 648, § 291B)

The primary distinction between the ordinances is that under 9.101, the Board of Education has the discretion to establish new bus routes for the transportation to and from school of children attending schools not receiving State aid.

Historical Overview of Services

The transition of services in which parochial schools accessed the same buses servicing public schools, section 9.100, to parochial schools receiving their own buses, section 9.101 took place in the mid 1970's. In the July 19, 1979 memorandum (attachment) from Charles Ecker to Grason Fowble, Mr. Ecker states, "When the separate system was established two years ago, it was agreed that we would provide the same service that we provide regular students." In the Board of Education minutes dated September 22, 1983 (attachment), Mr. Robert Lazarewicz, provided the following background in his report:

Transportation services for parochial students began in the early 1940's. There have been some significant changes in the type and level of services related to providing transportation for parochial school students. The program began as a "shuttle system" whereby parochial school students boarded the public school bus and rode to a public school. A "shuttle bus" then provided bus service to the respective parochial school. In 1976 a "separate fleet" system was established which provides separate buses for parochial school students. This system was established primarily because a state-imposed financial penalty made the "separate fleet" more cost effective. With some modifications the "separate fleet" is utilized currently in Howard County.

After the issuance of Mr. Ecker's memorandum and Mr. Lazarewicz's report, subsequent correspondences and Board minutes address attendance areas for the parochial schools, as well continued budget discussions. A letter from the Attorney General of Maryland, dated February 15, 1995 is also included as an attachment. Lastly, in 1984, the Atholton Adventist School requested transportation services and later in the year withdrew their request.

Current Services and Statistics

Currently, school bus service is provided to the following five (5) parochial schools: Bethel Christian Academy, Our Lady of Perpetual Help (OLPH), Resurrection-St. Paul Catholic School, St. Augustine School, and St. Louis Catholic School. Each school receives service in accordance with section 9.101, namely, school buses are assigned to each school.

Bus Assignments

Bethel Christian Academy - 2
 Our Lady of Perpetual Help (OLPH) - 2
 Resurrection-St. Paul Catholic School - 4
 St. Augustine School - 2
 St. Louis Catholic School - 9

Each school bus assigned to a parochial school is also assigned to provide service to public schools. For example, the buses assigned to OLPH, service a high and middle school prior to starting the OLPH trip. These scheduled trips are designed to maximize efficiencies and are consistent with the assignments of trips assigned to each school bus throughout the county. The complete schedule for all buses is provided below.

Bethel Christian Academy		
Bus 854 Hammond HS Bethel Christian Academy Clarksville ES	Bus 970 Patuxent Valley MS Bethel Christian Academy Forest Ridge ES	
OLPH		
Bus 159 Long Reach HS Bonnie Branch MS OLPH	Bus 861 Oakland Mills HS Mayfield Woods MS OLPH	
Resurrection-St. Paul		
Bus 468 Centennial HS Burleigh Manor MS Resurrection-St. Paul	Bus 771 Mt. Hebron HS Patapsco MS Resurrection-St. Paul	Bus 801 Mt. Hebron HS Patapsco MS Resurrection-St. Paul
Bus 821 Mt. Hebron HS Bonnie Branch MS Resurrection-St. Paul		
St. Augustine School		
Bus 156 Howard HS	Bus 988 Mayfield Woods MS	

Elkridge Landing MS St. Augustine School	St. Augustine School Bellows Spring ES	
St. Louis Catholic School		
Bus 300 Marriott's Ridge HS Burleigh Manor MS St. Louis Catholic School	Bus 74 River Hill HS Clarksville MS St. Louis Catholic School	Bus 75 River Hill HS St. Louis Catholic School
Bus 8 River Hill HS Clarksville MS St. Louis Catholic School	Bus 871 Patuxent Valley MS St. Louis Catholic School	Bus 88 Folly Quarter MS St. Louis Catholic School
Bus 89 River Hill HS Burleigh Manor MS St. Louis Catholic School	Bus 956 Wilde Lake HS Harpers Choice MS St. Louis Catholic School	Bus 959 River Hill HS Clarksville MS St. Louis Catholic School

The average trip length of parochial school trips is 13.5 miles as compared to 5.4 miles for public school trips. This difference can be attributed to the larger service areas (boundary) for the parochial schools. Additionally, since time has a direct correlation to mileage, the trip average for parochial schools is 45 minutes and the public school average of 24 minutes. Lastly, the ridership on parochial school buses is typically low (on average 20 students per bus). As a result, trips were consolidated which yielded a reduction of six (6) trips (Bethel Christian – 1, St. Louis -1, OLPH -2, and Resurrection 2). The transportation office continues working closely with the school administrators and will continue their efforts in reviewing the utilization of buses.

Schools	Data	Total
Bethel Christian Academy	Sum of Number Stops	80
	Average of Duration	52
	Count of Trips	4
	Average of Distance	13.64
OLPH	Sum of Number Stops	42
	Average of Duration	30
	Count of Trips	4
	Average of Distance	12.05
Resurrection-St. Paul	Sum of Number Stops	82
	Average of Duration	42.75
	Count of Trips	8
	Average of Distance	11.49
St. Augustine School	Sum of Number Stops	82
	Average of Duration	41.25
	Count of Trips	4
	Average of Distance	16.24
St. Louis Catholic School	Sum of Number Stops	181

	Average of Duration	50.5
	Count of Trips	18
	Average of Distance	14.18
Total Sum of Number Stops		467
Total Average of Duration		45.89
Total Count of Trips		38
Total Average of Distance		13.55

Cost of Services/Budget Impact

Since school bus service is competitively bid, with the term of a contract for six (6) years with six (6) additional renewal years, the contract assignments and associated rates may change. The rates are based on the following:

- Base Hourly Rate for 5 hours
- Base Mileage Rate for 55 miles
- Extended Hourly Rate for time over 5 hours
- Extended Mileage Rate for mileage over 55 miles

Because buses service parochial and public services, the work assigned to support these services must be assigned to the appropriate category. On average, parochial school costs represent approximately 48% of each contract and the requested amount for parochial services for FY21 is \$797,811.

Parochial school transportation is budgeted under State Category 14: Community Services. The County does not include Category 14 in the calculation of the required Maintenance of Effort (MOE) funding. Therefore, neither a decision to maintain this request nor to eliminate it will have an impact on MOE.

In response to a request for an analysis of the budget impact if some parents transfer their child from a parochial school to an HCPSS school, it is important to note that the school system both receives additional revenue per student as well as incurs an obligation to provide services. This analysis is not reducible to a single dollar impact. On the revenue side, HCPSS will receive approximately \$14,000 in FY 2021 formula-based funding from the State and County combined per student. Actual enrollment used in the formula lags by one (1) year; therefore receipt of new dollars for new students is delayed one (1) year. Each additional student creates a demand on services, however, and at some point depending on the number and nature of students that demand create operating and capital costs, some of which may be significant.

School	Bus #	Route #	Contractor	Daily Contract Cost	Parochial Trip Cost	Parochial % of Total
Bethel Christian Academy	970	R1323	Blue Horizons	402.35	148.79	36.98%
	854	R0994	Mellors	319.58	129.23	40.44%

OLPH	159	R1186	Tip Top	329.3	135.64	41.19%
	861	R0861	Tip Top	327.83	224.38	68.44%
Resurrection-St. Paul	771	R0877	BL Corn	313.38	137.77	43.96%
	468	R1327	MBG	387.71	161.51	41.66%
	821	R0808	MBG	348.9	145.6	41.73%
	801	R1332	Y&L Trans	400.85	156.1	38.94%
St. Augustine School	156	R0884	Tip Top	349.34	185.32	53.05%
	988	R0874	Tip Top	303.7	130.42	42.94%
St. Louis Catholic School	956	R1052	Blue Horizons	462.64	259.49	56.09%
	959	R1050	Blue Horizons	368.63	156.77	42.53%
	300	R0802	Bowens	359.92	222.46	61.81%
	74	R1157	Bowens	332.92	131.85	39.60%
	75	R0855	Bowens	337.1	306.77	91.00%
	88	R1339	Bowens	490.79	282.05	57.47%
	89	R1277	Bowens	515.8	260.65	50.53%
	8	R1120	HOB	317.95	125.04	39.33%
	871	R0993	JC Bus	342.88	283.93	82.81%
Average				369.03	188.62	48.53%

It should be noted that administrative human capital costs (design the bus routes, provide customer service to schools and parents, and contract oversight to the bus contractors assigned to each school) is not charged to State Category 14.

Lastly, should the Board consider providing service only under section 9.100, the school system would not yield a budget reduction savings from funds allocated to support parochial services. The buses assigned to the schools are still under contract with the Board and would be reallocated to support other needs of the school system.

If you have any questions, please contact Mark Blom, General Counsel, or David Ramsay, Director, Pupil Transportation Office.

Copy: Executive Staff
Board of Education Office

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February 15, 1995

The Honorable Martin G. Madden
402B Senate Office Building
Annapolis, Maryland 21401-1991

Dear Senator Madden:

You have requested advice on whether under law the Howard County Board of Education may discontinue a program of transportation of public school students or not include in its proposed budget funds for such a program.

On the basis of statutory construction, it is my view that the Board of Education may not discontinue this student transportation program or fail to include any funds in its proposed budget for its operation.

In 1943, the General Assembly enacted the following public local law for Howard County:

"All children who attend parochial schools in Howard County, which schools do not receive state aid, and who reside on or along or near to the public highways of Howard County, on which there is now or hereafter operated a public school bus or conveyance provided by the Board of Education of Howard County for transporting children to and from the public schools of Howard County, shall be entitled to transportation on the said buses or conveyances, subject to the conditions hereinafter set forth, from a point on the said public highways nearest or most accessible to their

The Honorable Martin G. Madden

February 15, 1995

Page 2

respective homes to a point on said public highways nearest or most accessible to their respective schools, without changing the routes of said buses or conveyances now or hereafter established by said Board of Education of Howard County for transporting children to and from the public schools. Such transportation may be provided by the Board of Education, as aforesaid for all the children attending schools described herein, upon the same terms and conditions as now or as may be hereafter established by the Board of Education of Howard County for children attending public schools." (Emphasis added). Chapter 648, Laws of 1943; Howard County Code, §9.100.

This statute also authorizes the County to appropriate funds for the parochial student transportation program; empowered the Board of Education to establish new bus routes "in its discretion" for the program, and to set "reasonable terms and conditions" for program administration; and states that:

"[B]ut in no event shall the amount charged children attending such schools be greater or less than the amount charged children attending the public schools for the same kind of transportation." Howard County Code, §9.101.¹

¹ According to U.S. District Court Judge Harvey in McCarthy v. Hornbeck, 590 F.Supp. 936, 939 (D. Md. 1984):

"There is no State law which relates to the providing of transportation services at public expense for private school students. However, in eleven of Maryland's twenty-four counties, local laws permit the extending of some such services to nonpublic school students at county expense. The remaining thirteen counties have not authorized the use of public funds for the furnishing of transportation services to private school students.

The counties which do not have public local laws concerning the transportation of nonpublic school students are now without power to enact legislation which would offer such services at county expense. In 1977, the Maryland Court of Appeals invalidated an attempt by Anne Arundel County to enact legislation which would provide transportation for nonpublic school students. McCarthy v. Board of Education of Anne Arundel County, 280 Md. 634, 374 A.2d 1135 (1977). The Court held in McCarthy that the field of education has been preempted by the General Assembly and that since transportation is an integral part of modern education, the home rule power of the counties did not extend to providing services of this sort. Under Maryland law

The Honorable Martin G. Madden

February 15, 1995

Page 3

The 1943 enactment is not a directory enactment that allows the Board of Education to disregard its terms. Although admitting of a measure of discretion in the establishment of new routes, in setting "reasonable" program terms and conditions, and making those terms and conditions the "same" as those for children attending public schools, the statute's basic command is framed in mandatory terms, *viz.* that qualified parochial school students "shall be entitled to transportation". In light of this requirement imposed by the General Assembly, the Board, in my view, is not free to eliminate this program that was established by law. Nor, in my opinion, can the Board eliminate the program by simply refusing to request in its budget money for parochial student transportation. Under §5-101(c) of the Education Article, student transportation is a budget category for which the board is required to prepare an annual budget under §5-101(b). Cf. Board of Education of P.G. Co. v. Co. Comm., 131 Md. 658, 668 (1917) (Board is "required by statute to expend all taxes received by it in accordance with the items of their budget.").

For these reasons, it is my view that the Board of Education may not discontinue the program of student transportation required by the 1943 statute or fail to include any funds in its proposed budget for such transportation.

Sincerely,



Kathryn M. Rowe
Assistant Attorney General

KMR:maa
kmr/madden.001

then, legislative responsibility for dealing with the current pattern of disparate transportation services provided to nonpublic school students in Maryland rests with the General Assembly."

File

July 19, 1979

TO: Mr. Grason Fowble
 FROM: Charles I. Ecker
 RE: Parochial Transportation

It has come to my attention that we are providing transportation services to parochial students that we do not provide to students to public schools.

When the separate system was established two years ago, it was agreed that we would provide the same service that we provide regular students.

The Priest set up school districts for each of the four parochial schools. A person living in one district was not to receive transportation to a school in an attendance area in which the student did not live.

I understand that we are not only providing transportation from one district to another, but we are actually having buses go into another district to pick up students.

Effective immediately, this service provided parochial students will be equal to the services that we provide public school students. Buses going into another attendance area to pick up students will be discontinued.

Please discuss this with me if you so desire.

CIE/nm

Minutes
September 22, 1983

6

REPORT ITEMS

Parochial School Bus Transportation

Mr. Robert Lazarewicz, Supervisor of Support Services and Mr. Glen Johnson, Assistant in Transportation, were present for the discussion of this item. It was pointed out that this report was developed after several inquiries and statements were made with reference to the transportation of parochial school students.

It was reported that in 1943, the Maryland General Assembly enacted local legislation to provide transportation for parochial school students in Howard County. The statute identified the conditions under which such transportation shall be provided and funded. The statute is now part of the Howard County Code in sections 9.100 and 9.101.

There have been several legal opinions and court rulings rendered in the past thirty years concerning the constitutional and legal issues associated with providing school bus service for parochial and/or non-public school students when such services are funded from local and/or state tax revenues. The latest opinion issued to the Howard County Council in 1981 by Timothy E. Welsh, Howard County Office of Law, in summary states:

- The Board of Education of Howard County has correctly interpreted the language of section 9.100 of the Howard County Code as mandatory and not permissive.
- Sections 9.100 and 9.101 of the Howard County Code appear to be constitutionally defective, but until adjudicated unconstitutional the present law is presumed valid.

Transportation services for parochial students began in the early 1940's. There have been some significant changes in the type and level of services related to providing transportation for parochial school students. The program began as a "shuttle system" whereby parochial school students boarded the public school bus and rode to a public school. A "shuttle bus" then provided bus service to the respective parochial school. In 1976 a "separate fleet" system was established which provides separate buses for parochial school students. This system was established primarily because a state-imposed financial penalty made the "separate fleet" more cost effective. With some modifications the "separate fleet" is utilized currently in Howard County.

The costs for parochial school bus service from 1970 to 1983 ranged from \$61,000 to \$203,000. Several cost containment measures have been implemented in the past seven years to help curtail the rising cost of parochial school bus service; including a reduction in the number of buses and a refined routing/scheduling system.

Minutes
September 22, 1983

7

Considering the legal opinions and court decisions concerning the transportation of parochial students, the staff believes that the Board is mandated to provide transportation for parochial school students in Howard County.

In answer to a question asked by Mr. Salett, Dr. Goedeke indicated that the staff has consistently acted within the county code and has not been challenged over the years. The plan is to continue to operate on the basis of the same interpretation and past practice which has been successful.

Mr. Salett noted that parochial schools and non-public schools would be eligible for the same transportation aid. The Board was advised that requests would be handled on a case by case basis and would be presented for approval by the Board, as in the past.

1984 Annual Lay Conference

Dr. Lee Smith, Supervisor of Staff Development, was present for the discussion of this item. He presented the preliminary plans for a lay conference on the topic of education and high technology.

The suggested objectives of the conference are:

1. To provide a forum for presentations, discussions, hands-on experiences, and interactions with guest speakers on the topic of high technology and its place in our society
2. To demonstrate high technology equipment to the public for the purpose of raising awareness to changes in our society
3. To receive input from community and resource persons on what changes are needed in our school programs to meet the high technology needs in Howard County.

Suggested dates for March, 1984 were given so that speakers can be scheduled. The suggested committee membership was presented to the Board and agreed upon. The appropriate invitations will be sent to those persons identified to make up the committee which will be chaired by Dr. Smith.

A dinner break was taken from 6:00 p.m. to 7:30 p.m.

Listening Post Session

Mrs. Sue Hartdegen, parent of Wilde Lake High School graduates, shared with the Board her concerns about the program at Wilde Lake High School. The Board asked that the staff follow up and report to the Board with regard to the recommendations presented by Mrs. Hartdegen.