



COLORADO
Department of Education
Commissioner of Education

201 East Colfax Avenue
Denver, CO 80203-1799

August 9, 2018

Dear Superintendents and BOCES Directors,

Hope you are all doing well and enjoying the excitement of this back-to-school season. I'm writing today to let you know about an issue you and your local boards should be aware of.

During the 2018 session, the General Assembly made a significant change in the law regarding inter-district student transportation. Previously, a school district could provide transportation to non-resident students only for students residing in an adjacent district and only when the board of the adjacent district consented. Colo. Rev. Stat. § 22-32-113(1)(c), C.R.S. (2017).

These requirements regarding geography and consent were deleted from statute through an amendment to House Bill 18-1306, "Concerning Ensuring Educational Stability for Students in Out-of-Home Placement, and, in Connection Therewith, Making an Appropriation."

I wanted to make sure you are all aware that the Colorado Association of School Boards, the Colorado Association of School Executives, six individual districts, and two resident taxpayers have filed an action in Denver District Court (Case No. 2018CV32901) alleging that the new section regarding transportation in HB 1306 is legally void. The suit names both the Commissioner and the State Board of Education as defendants, not because CDE or the Board have taken a position on the bill, but because of our state constitutional responsibilities for the general supervision of the public schools.

The suit argues that the addition of the transportation issue to the bill violated Article V, Section 21 of the Colorado Constitution, which requires that bills contain only one subject that is clearly expressed in the bill's title. The constitution says that "any act which shall not be expressed in the title" is void. When he signed the bill, Governor Hickenlooper expressed concern that the new section would be vulnerable to a legal attack based on this "single subject" requirement. He issued a signing statement available at https://www.colorado.gov/governor/sites/default/files/1306_letter.pdf.

You should be aware of this pending lawsuit because it may impact your transportation authority. If the plaintiffs prevail, the text of the transportation statute would return to its prior requirements, prohibiting the transportation of students across district boundaries without the permission of the other school district (see below). I hope this information will assist you in your planning to ensure that any change in the law does not create a hardship on your district or the families you serve.

SECTION 7. In Colorado Revised Statutes, 22-32-113, amend (1)(c) and (4) as follows:

22-32-113. Transportation of pupils - when. (1) The board of education of a school district may furnish transportation:



(a) To and from public schools for any reasonable classification of pupils enrolled in the schools of the district who are resident RESIDENTS of any other school district; if the district of residence is adjacent to the district of attendance, and if the board or other governing body of the district of residence shall consent to such transportation;

(4) A board may reimburse a parent or guardian for the expenses incurred by such parent or guardian in furnishing transportation to and from a public school or designated school vehicle stop for his or her child or children and for other pupils enrolled in the schools of the district. but the board may not reimburse any person for transportation furnished to a pupil resident in another school district without the consent of the board or other governing body of the district of residence. The amount and payment of such TRANSPORTATION expenses shall be as ARE determined by the board paying such THE expenses.

HOUSE BILL 18-1306, pp. 19-20.

Sincerely,

A handwritten signature in black ink that reads "Katy Anthes" with a long horizontal flourish extending to the right.

Katy Anthes, Ph.D.
Commissioner

