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# SOUTH ALLEGHENY SCHOOL DISTRICT

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## February 3, 2021 – South Allegheny SD Statement Following Injunction Hearing

Yesterday, the School District presented an argument to Judge McVay of the Allegheny County Court of Common Pleas, which was the first step to obtain an injunction or Court Order requiring Sun Coach to continue to transport all of the District's students while the dispute surrounding transportation payments was resolved. Judge McVay did not issue an immediate Order because the Judge wanted to hear testimony as to how all District students would suffer irreparable harm if prevented from attending live in-person instruction rather than continuing with remote learning. The Court did, however, agree with the School District that lack of live *in-person* instruction would cause immediate irreparable harm to the School District's special education students. Based on that concern, the Judge requested and Sun Coach agreed to continue to transport special education students who attend out-of-district placements to ensure that those students' needs were met. Also, Judge McVay obtained a commitment from Sun Coach to return to mediation in an attempt to resolve the payment dispute. The School District's position has always been that the contract requires the parties to address disputes through mediation. After months of refusing to do so, Sun Coach agreed to participate in one half day session, but refused to return for a second session. The second session is now being scheduled.

It is important to note that the School District's contract with Sun Coach contains a provision, which requires the parties to renegotiate the bulk rate or the amount due for school bus transportation services in the event of the occurrence of certain identified triggering events that could increase or decrease the demand for school buses or school bus transportation services. These triggering events include: (1) if the number of students provided school bus transportation services by the School District increases or decreases at any time during the term of this Agreement by 5% or; (2) if the School District, for whatever reason, discontinues school bus transportation services. Paragraph 4 of the Agreement with Sun Coach, which contains these terms, reads as follows:

In consideration of the performance on the part of the CONTRACTOR under the terms of the Agreement, the SCHOOL DISTRICT agrees to pay the CONTRACTOR in accordance with the yearly bulk rates attached hereto, made part hereof, and identified as part of Exhibit "A" for the initial one (1) year period commencing on August 1, 2016, through July 31, 2017, and for each subsequent year thereafter throughout the term of this Agreement, *unless one (1) or both of the following occur:*

- (a) The number of students provided school bus transportation services by the SCHOOL DISTRICT increases or decreases at any time during the term of this Agreement by 5% or more from the number of students provided school bus transportation services as of the first student day of the 2016-2017 School Year, which was August 24, 2016;
- (b) The SCHOOL DISTRICT, for whatever reason, discontinues school bus transportation services for its students beyond the 2016-2017 School Year, except for those school bus transportation services mandated by federal or state law; and

If either or both of the above (a) and/or (b) events occur, the CONTRACTOR and the SCHOOL DISTRICT agree that, notwithstanding any other provisions of this Agreement, they will renegotiate the bulk rate for school bus transportation services set forth in Exhibit "A" hereto to provide an appropriate increase, reduction, or elimination in such bulk rate to the SCHOOL DISTRICT by the CONTRACTOR.

The District maintains that Governor Wolf's Closure Orders in the spring of last year, which ordered the closure of all schools and eliminated the need for any bus transportation, constituted such a triggering event. The School District's position is also that the ongoing COVID-19 pandemic and the School District's decision to follow the recommendation of the Department of Education and utilize a remote learning format in the 2020-2021, which dramatically decreased the need for bus transportation, triggered or provided the District with the right to negotiate a reduced payment. Sun Coach, however, has maintained throughout the course of this dispute that it is entitled to the *full bulk rate* regardless of the Closure Orders or the District's significantly reduced transportation needs in the 2020-2021 school year due to the ongoing COVID-19 pandemic

From the outset, the School District has repeatedly requested and was willing to participate in mediation to determine a fair price for transportation services that were *actually provided*. We are pleased that the parties will be returning to mediation in an attempt to settle this matter. While waiting for mediation, the School District will continue to provide updates on the status of in-person instruction for our students.