

September 30, 1950
Op. No. 50-215

W. L. ...
Miss Ann M. Bracken
Director, Child Welfare Division
Arizona State Department
of Public Welfare
39 North Sixth Avenue
Phoenix, Arizona

Dear Miss Bracken:

Re: Legal responsibility for purchasing
school books for indigent or dependent
children.

This is in answer to your letter of September 26, in
which you asked for our opinion in three respects. We will
answer them in the order given.

1. Who is responsible for purchasing school
books for high school children when the
family has no funds to expend for this
purpose?

In our opinion there is no legal responsibility on the
part of any public agency to furnish books under such cir-
cumstances, unless jurisdiction has been acquired over such
children by the juvenile court. Compulsory school attendance
only extends to the eighth grade, and since there is no public
requirement that the children attend high school, apparently
the Legislature has not seen fit to make provision for pur-
chase of school supplies for high school students who are
unable to purchase their own.

2. Who is responsible for purchasing school
books for children who are wards of the
court (juvenile) or in custody of county
departments of public welfare.

While there is no exact spelling-out of this responsi-
bility in any of our statutes, we are of the opinion that
both the juvenile court, and the division of the Welfare De-
partment handling placement of dependent children in foster
homes, have authority to do whatever is reasonably necessary
for children over whom they have acquired jurisdiction
through the court.

Section 46-105 (b) ACA 1939 (Code Supplement) in the
juvenile code provides that the "judge shall make such order
for the commitment, custody, and care of the child as the
child's own good and the interests of the state require".
This section further provides that the court may "allocate

a reasonable sum for the support of the child, at the expense of the county".

Under the constitution and statutes of Arizona, the juvenile court has very broad authority over children up to the age of 18 years, and when it has assumed jurisdiction over them, represents the state as *parens patriae*. Both the common law and statutes have consistently recognized parental duty of support and maintenance of their children during their minority, and courts have interpreted this as meaning that the parents are responsible for not only physical but mental care in the way of necessary education. In the leading case of Esteb v. Esteb, 138 Wash. 174, 244 Pac. 264, the court held that a father was legally responsible for financial support to maintain his minor daughter in college to fit her for the teaching profession. In our opinion, the wording of Section 46-105 (b) supra, that the juvenile judge "shall make such order for the * * * care of the child as the child's own good and the interests of the state require", gives ample authority for the court to decide whether that care includes further education, and the further provision that it may "allocate a reasonable sum for the support of the child, at the expense of the county" is authority for the court to order payment of any reasonable sum toward such education of a child for which, through exercise of its juvenile court powers, it stands in *loco parentis*.

The juvenile court, after acquiring jurisdiction of children is also authorized to place them in the custody of the county welfare department ("an appropriate public * * * agency authorized to care for children", Section 46-105 (b) supra). In the Welfare Code Section 70-108 (c) provides that the State Department shall "administer all child welfare activities, including * * * care of dependent, neglected and delinquent children in foster family homes * * *". This is merely a legislative extension of the principle that the welfare of children is a primary obligation of the state, and we are of the opinion that the care of children in foster homes includes their education, and that our courts would hold that such language authorizes the State Department to allocate from the proper appropriation (foster homes) such amount as is deemed necessary for purchasing of school books for children placed by the court in custody of the county department, which has placed them in foster homes.

3. Who is responsible for purchasing clothing and transportation for children to the Arizona School for the Deaf and Blind, when parents or guardians have no funds for this purpose.

Section 54-1523 ACA 1939 makes specific provision in this regard. It reads as follows:

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"Clothing and means of transportation.--
Whenever any pupil is not otherwise supplied with the necessary clothing or with the means to pay his transportation to the school and home, at the close of the school term he shall be supplied by the superintendent of the institution with the necessary clothing and means of transportation from the funds of the institution, and the superintendent shall make out an account thereof against the parent or guardian, if the pupil be a minor, and against the pupil if he or she has no parent or guardian or has attained the age of majority, which account shall be certified to be correct by the superintendent, and when so certified such account shall be correct. The superintendent shall thereupon remit such account to the clerk of the board of supervisors of the county from which the pupil so supplied shall have come to the institution. Such clerk shall proceed at once to collect the same by suit in the name of his county, if necessary, and pay the same to the superintendent of the institution, provided, if it shall appear that the parent or guardian is unable to pay the account, and that such pupil is an indigent as contemplated in this act, then such account shall be paid from the county general fund."

In other words, the county is responsible for furnishing clothing and transportation to and from the Arizona School for the Deaf and Blind if it appears that the parent or guardian is unable to pay for the same.

Very truly yours,

FRED O. WILSON
Attorney General

LORNA E. LOCKWOOD
Assistant Attorney General

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