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March 28, 1955
Letter Opinion
No. 55-65

REQUESTED BY: The Honorable Jack L. Ogg
Yavapai County Attorney
Prescott, Arizona

Attention: Mr. James P. Boyle, Jr.
Deputy County Attorney

OPINION BY: ROBERT MORRISON, The Attorney General
Gordon Aldrich, Assistant to
The Attorney General

QUESTION: What is the duty of the District School
Board relative to the provision of trans-
portation for school children residing
within the district at distances from 8
to 15 miles from a main-traveled highway?

CONCLUSION: There must be a consideration of the school
district budget and finances, particularly
the capital outlay for transportation, and
there must be consideration of the number of
pupils residing at great distance from the
bus route. In the event the finances are
not adequate and in the event the number of
pupils residing at the greater distances is
small, then there has been no abuse of the
discretion authorized by Section 54-416 (6)
in not providing transportation.

Dear Mr. Boyle:

For the purpose of the answers to your specific request, the fact situation shall be taken as follows: The Chino Valley Common School District consists of a large rural area traversed by Public Highway 89; and bus transportation is accorded pupils residing within the district most of whom are within walking distance of regular stopping places on Highway 89. The problem of transportation becomes more acute for other pupils residing at distances from 8 to 15 miles from the highway.

The pertinent portion of Section 54-416 (6) contains the following language:

"The Board shall . . . provide transportation for any child or children whom they deem it

best for the interest of the district, whether within or without the district, county or state."

It may be safely assumed that should the district board elect to provide door-to-door transportation for these particular pupils the Board would be well within the express powers of the provision cited. The only question concerning the language of this statute, then, is that focused on the words, "for the best interest of the district"; you will note the provision is not "for the best interest of the child or children," but "for the best interest of the district."

It is elementary that the political subdivision of a school district is endowed with the narrowest powers and given the most specific duties to accord with public policy in their creation. The primary function and the sole function of the school district is the education of the youth within the geographical boundaries of such district. The only matter of policy then, involving this particular statute, is whether or not, "in the best interest of the district", the school board is performing the function for which such political subdivision was designed.

Whether or not there has been an abuse of discretion can only be determined from facts which are not apparent in your inquiry. For example, if there are relatively few students residing in the far reaches of the district and the cost of their transportation is out of proportion to such a degree as to make it not in the best interest of the district to supply them with transportation, then, of course, the Board's discretion is prudently exercised. If, on the other hand, there are large numbers of students residing at great distances and there are relatively few in number who find easy access to the schoolhouse, then the broad purpose of the school district organization is brought into play, viz, the purpose of educating the youth of the district; and it becomes necessary for the Board, in the exercise of prudence, to provide transportation to students residing at greater distances.

Subsection 5 of the above-quoted section allows the county school superintendent to provide for both tuition and capital outlay for securing the attendance of pupils at other districts:

"54-510. Allowance for children inaccessible to school.--The county school superintendent, by and with the consent of the board of supervisors, may allow on his warrant a sum not to exceed ten dollars (\$10.00) per school month per pupil, of compulsory school age, living at such a dist-

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ance or in such inaccessible places that compulsory attendance is impracticable, toward the education of such pupils. The said money may be used by the superintendent as he deems best for the interest of the pupil and shall be paid out of the reserve fund of the county."
(Emphasis supplied)

In conclusion, there must be a consideration of the school district budget and finances, particularly the capital outlay for transportation, and there must be consideration of the number of pupils residing at great distances from the bus route. In the event the finances are not adequate and in the event the number of pupils residing at the greater distances is small, then there has been no abuse of the discretion authorized by Section 54-416 (6).

Yours very truly,

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