



Attorney General

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Robert R. Corbin

LAW LIBRARY ARIZONA ATTORNEY GENERAL

November 26, 1985

Mr. Arthur T. Markham
Deputy Yavapai County Attorney
Yavapai County Courthouse
Prescott, Arizona 86301

RE: I85-122 (R85-146)

Dear Mr. Markham:

Pursuant to A.R.S. § 15-253(B), we decline to review the opinions expressed in your October 8, 1985 memorandum to all Yavapai County School Districts concerning school bus operators reporting mandatory stopping violations.

Sincerely,

A handwritten signature in cursive script that reads "Bob Corbin".

BOB CORBIN
Attorney General

BC:JGF:TLM:lp

EDUCATION OPINION

ISSUE NO LATER THAN

12-13-85

M E M O R A N D U M

R85-146

10-15-85

TO: All Yavapai County School Districts

FROM: Arthur T. Markham, Deputy County Attorney

DATE: October 8, 1985

SUBJECT: Vehicles Stopping for Stopped School Buses -
"Separate Roadways"

There has been a question raised as to when cars may pass a stopped school bus which is signaling that passengers are being received or discharged.

All school bus operators should be instructed to require all vehicles to stop for a signaling bus, wherever the bus is, until a judge rules differently about a particular roadway.

Attached are copies of the new versions of A.R.S. §§28-857, 28-857.01 and 28-930.

A.R.S. §28-857(D) states :

"the driver of a vehicle upon a highway with 'separate roadways' need not stop upon meeting or passing a school bus which is:

1. on a different roadway (or);
2. on a controlled-access highway and the school bus is stopped in a loading zone which is part of or adjacent to the highway and where pedestrians are not permitted to cross the roadway.

For the purposes of this sub-section, a lane or group of lanes on either side of a two-way left turn lane is not considered a separate roadway."

A.R.S. §28-857.01 places a legal obligation on

the school bus operator to notify the Motor Vehicle Division of any violations of the mandatory stopping requirements of A.R.S. §28-857. The school bus operator should also notify the local law enforcement officials, so that the local population knows that the law will be strictly enforced. This is not only for the primary benefit concerning the safety of school children, but for the secondary benefit concerning school liability in case of litigation involving a child hurt in an accident. The school district wants to be in the position of saying it did everything to avoid this type of accident.

The question arises as to when a roadway is "separate" or "different", so that a driver in the different roadway need not stop.

The definition of "roadway" in A.R.S. §28-1901(4) is very broad:

'Roadway' includes all or part of any platted or designated public street, highway, alley, lane, parkway, avenue, road, sidewalk or any other public way, whether or not it has been used as such.

A.R.S. §28-857(d) itself states that a two-way left turn lane does not "separate" the two different directions of travel. The statute does not go further to completely define a separate roadway. It is left up to the judge on a case-by-case basis as to what is "separate".

The only type of roadway which I can think of that might be "separate" would be a freeway such as I-17. The two directions of travel must be separated greatly by a

physical barrier such as a ravine or hill. If the median includes a fence, blocking pedestrians from crossing the roadway, that might "separate" the two directions of travel. The point is clear that a mere two-way left turn lane or island between the two directions of travel does not excuse the opposite direction of travel from stopping when a school bus is stopped and is signaling that passengers are being unloaded or loaded. If children can cross the roadway, including the opposite direction of travel, after they get off the bus, then both directions of traffic should be required to stop for the safety of the children. Children get accustomed to traffic stopping for buses. They may run across a roadway perhaps not realizing that oncoming traffic is on a supposedly "separate" roadway and will not be stopping.

My advice is that all school districts should instruct their school bus operators to consider each and every roadway a single roadway, including both directions of travel, irrespective of any painted medians, left turn lanes, dirt medians or minor separations between the directions of travel. Have your school bus operators strictly enforce the stopping requirement and notify the Motor Vehicle Division and local law enforcement officials of any violations. Let a judge, not a school bus driver, determine whether or not there is a separate roadway.

Enclosed with this memo is a copy of an opinion I wrote recently concerning school transportation safety. The Attorney General has declined to review, not disagree with,

that opinion (I-85-104).

As with all school law opinions, a copy of this opinion will be sent to the Attorney General for review purposes.

ATM:ces

Encls.

✓cc: Attorney General