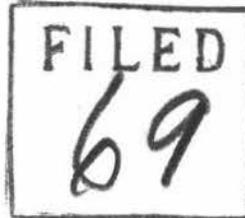


SCHOOLS: Person who has contracted to transport school children to and from school not excused from supplying said transportation due to bad weather conditions.

January 2, 1951

Honorable James L. Paul
Prosecuting Attorney
McDonald County
Pineville, Missouri



1-4-51

Dear Sir:

Your letter at hand requesting an opinion of this department, which, in part, reads:

"Where a school district employs and hires a private individual to furnish transportation for the students attending that particular school, said busses to travel over a designated route, what is the responsibility of the person so employed to furnish transportation, to pick up or deliver the child at its designated place of pick up and delivery, where, because of high water, sleet, ice, or snow, that it is impractical for the person furnishing the transportation to follow the designated route?"

At the outset, we observe that your question relates to the responsibility of a person employed to furnish transportation to pick up or deliver children at designated places where, because of the elements as you have set out, it is impractical for him to do so, and the facts which you relate do not indicate that it is entirely impossible for the person so employed to follow the designated route in furnishing such transportation.

It is possible that your question presents more of a practical one which might be worked out between the school board and bus driver, with the aid of the county superintendent of schools. While you do not state what type of school district is involved in the particular situation, we call your attention to Section 10327-a, Laws of Missouri, 1947, Vol. I, page 497, which provides for the solving of transportation problems in connection with common school districts, and, in part, reads:

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"The county superintendent of schools in each county of the state shall act as supervisor of school transportation established by common school districts. It shall be his duty to confer with and advise the school boards of common school districts of his county in all matters pertaining to school transportation and he shall assist such school boards of his county in establishing routes and contracting with drivers, and his office shall be available to the school boards in his county for meetings for the purpose of solving their transportation problems. * * *"

Section 10326, R.S. Mo. 1939, provides for the procedure to be followed in order that free transportation may be furnished to school children to and from school, and empowers the board of directors or Board of Education to arrange for and provide such transportation after the same has been voted by the taxpayers within the district. The statute then, in part, provides:

"The board of directors or board of education shall have authority and are empowered to make all needful rules and regulations for the free transportation of pupils herein provided for, and are authorized to and shall require from every person, employed for that purpose, a reasonable bond for the faithful discharge of his duties, as prescribed by the board."

In view of the above-quoted provisions of the statute it would seem that the school board would be empowered to make specific rules and regulations that would remedy the situation which you have presented in your letter.

It is also our thought that a person who has contracted for and undertaken to furnish the transportation of school children to and from school would certainly not be excused from furnishing said transportation due to the elements or inclement weather. As a matter of fact, during these times the transportation is probably of most importance to the children. While we can understand that bad weather conditions might make it extremely difficult for the school bus driver to travel the roads in order to transport pupils, he would not be excused from furnishing said transportation because of such difficulty. We

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believe that his failure to transport the children would probably render him liable on his bond, which we assume was required and was furnished in compliance with Section 10326, supra.

It is our further thought that the services of the person in question to supply transportation for the school children were contracted for and that a definite agreement or contract exists between such person and the school district. Such being the case, the bus driver, in failing to provide transportation for the pupils for the reasons as set out in your request, would constitute a breach of contract for which he would be liable.

CONCLUSION

It is therefore the opinion of this department that a person who has contracted with a school district to supply transportation of school children to and from school is not excused from transporting said children because of bad weather conditions which may render it impractical to do so, but which conditions do not render it impossible to transport such children.

Respectfully submitted,

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APPROVED:

J. E. TAYLOR
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RFT:ml