



Dr. Arthur L. Mallory

Does this statute, as revised, authorize a school board "that does not maintain an approved high school offering work through the twelfth grade" to designate an unapproved high school to which pupils will be transported at the expense of the district of residence and thereby avoid paying transportation costs for high school students?

Paragraph 1 of § 167.131, RSMo 1978, states as follows:

1. The board of education of each district in this state that does not maintain an approved high school offering work through the twelfth grade shall pay the tuition of each pupil resident therein who has completed the work of the highest grade offered in the schools of the district and who attends an approved high school in another district of the same or an adjoining county, or an approved high school maintained in connection with one of the state institutions of higher learning, where work of one or more higher grades is offered.

Therefore, pursuant to the provisions of § 167.131, a board of education of a district without a high school or without an approved high school must pay the tuition of resident pupils who attend the specified types of approved high schools.

The issue presented in your question is whether a school district can designate an unapproved high school and thereby avoid transportation costs. Section 167.241, RSMo Supp. 1979, states:

Transportation for pupils whose tuition the district of residence is required to pay by section 167.131 or who are assigned as provided in section 167.121 shall be provided by the district of residence; however, in the case of pupils covered by section 167.131, the district of residence shall be required to provide transportation only to high schools meeting minimum classification standards adopted by the state board of education and those high schools designated by the board of education of the district of residence.

As previously stated, § 167.131 only requires payment of tuition to approved high schools. The however clause in § 167.241 merely

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specifies those approved high schools under § 167.131 attendance at which requires the district of residence to provide transportation.

Also significant in the however clause of § 167.241 is the use of the conjunction "and," reading:

[T]he district of residence shall be required to provide transportation only to high schools meeting minimum classification standards adopted by the state board of education and those high schools designated by the board of education of the district of residence. (Emphasis added)

The conjunction "and" means that two phrases must be considered together. A conjunction that connects words and phrases expresses the idea that the latter is to be added to or taken along with the first. Black's Law Dictionary 112 (4th ed. Rev. 1968). Therefore, in construing the however clause of § 167.241, in the case of pupils covered by § 167.131, the district of residence may only designate a high school meeting minimum classification standards to which they must provide transportation.

#### CONCLUSION

It is the opinion of this office that § 167.241, RSMo Supp. 1979, does not authorize a school board that does not maintain an approved high school offering work through the twelfth grade to designate an unapproved high school for attendance by resident pupils who have completed the work of the highest grade offered in the schools of the district, both by reason of § 167.131, RSMo 1978, and the provisions of § 167.241, RSMo Supp. 1979, requiring the board only to choose from high schools that meet minimum classification standards adopted by the State Board of Education.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Leslie Ann Schneider.

Yours very truly,



JOHN ASHCROFT  
Attorney General