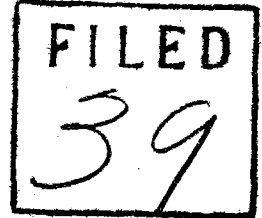


SCHOOLS: School district receiving State aid may pay excess above \$3.00 allowed for transportation costs, out of incidental funds of the district.

August 17, 1943



Representative J. B. Meriford
Hammond, Missouri

Dear Mr. Meriford:

This will acknowledge your personal request for an opinion on the following questions:

1. Whether school boards and faculties can charge an additional fee above the \$3.00 State Aid for pupils riding school buses.
2. Has the school board a right to refuse transportation for any child who cannot pay the fee required in excess of State aid.

Free transportation of school children is a practice recognized for a considerable period of years. The obvious purpose of the law relating to this subject is to offer an opportunity to every child in the state to attend school. In the past some confusion has existed as to the intent of the Legislature on this question. While some obscurity has existed in the past, we believe that the School Law of 1931, as enacted by the Legislature, together with the interpretations given since that date, disclose that the Legislature clearly intended to provide transportation for pupils in districts having no schools or inadequate facilities for schools and requiring attendance in other districts.

Section 10526, R. S. No. 1939, provides for the free transportation of pupils and the full text of this section reads as follows:

"Whenever the board of directors of any school district or board of education of a consolidated district shall deem it advisable, or when they shall be requested by a petition of ten taxpayers of such district, to provide for the free transportation to and from school, at the expense of the district, of pupils living more than one-half mile from the school-house, for the whole or for part of the school year, said board of directors or board of education shall submit to the qualified voters of such school district, who are taxpayers in such district, at an annual meeting or a special meeting, called and held for that purpose, the question of providing such transportation for the pupils of such school district: Provided, that when a special meeting is called for this purpose, a due notice of such meeting shall be given as provided for in Section 10361. If two-thirds of the voters, who are taxpayers, voting at such election, shall vote in favor of such transportation of pupils of said school district, the board of directors or board of education shall arrange for and provide such transportation. 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. Said board of directors or board of education shall pay by warrant the expenses of such transportation out of the incidental fund of the district: Provided, that this section shall include pupils attending private schools of elementary and high school grade except such schools as are operated for profit."

August 17, 1943

It would seem that the State aid afforded in the matter of transportation costs shall not exceed the sum of \$3.00 per month per pupil, but it does not mean that this is a limit set by the State as to the amount which may be paid for the transportation of each pupil. The State aid is offered with the intent of solving a portion of the transportation problem within each school district, and the General Assembly did not mean that the sum of \$3.00 was the maximum which might be paid for the transporting of a pupil to other schools.

Under Section 10326, R. S. No. 1939, quoted above, a proper method whereby money may be raised to pay for the transportation of pupils, which sum of money is to augment that money received from the State under authority of Section 10327, R. S. No. 1939, if any extra money is needed.

We cannot find any portion of the statute which concerns itself with State aid for transportation, requiring the pupils as individuals, or their parents, to supply the difference between the \$3.00 State aid and the amount necessary for the transportation of the pupil. It would seem that the obvious intention of the Legislature is to give the school a right to send pupils to another district, and a further right to make up the difference in transportation costs between the State aid allowed and the actual cost of transportation.

CONCLUSION

It is, therefore, the opinion of this department that a school district which provides transportation facilities for its pupils to another district, for which said district receives \$3.00 as reimbursement for State aid, may pay the amount in excess of \$3.00 out of the incidental funds of the district. It is also the opinion of this department that such excess funds are not due from the individual pupils, nor their parents, within said district.

Respectfully submitted,

L. I. MORRIS
Assistant Attorney-General

APPROVED:

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Attorney-General

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