

FILE

Subject

~~Schools - Property~~
~~Schools - Pupils~~
~~Transportation~~



STATE OF KANSAS

Office of the Attorney General

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER
Attorney General

August 21, 1974

Opinion No. 74-284

Mark L. McHenry
Chairman
Four Rivers Conservation
and Development Project
Box 188
Minneapolis, Kansas 67467

Dear Mr. McHenry:

We have your inquiry concerning the use of school buildings and equipment in developing a county-wide recreation program. K.S.A. 72-8212 authorizes the board of a unified school district to open "any or all school buildings for community purposes." A program such as the one contemplated in your area would meet that community purpose standard.

However, the use of school buses presents an entirely different situation. The Kansas Supreme Court, referring to *Carothers v. Board of Education*, 153 Kan. 126, stated in *Helberg v. Howie Unified School District*, 203 Kan. 797:

"The court there held, in effect, that transportation statutes are to be strictly construed and cannot be interpreted to give implied authority. . . ."

With this structure in mind we can turn to the transportation statutes found generally at K.S.A. 72-8301 *et seq.* As we read the statutes, the only persons, other than pupils for school purposes, who can be transported by buses which are not needed for school purposes are senior citizen groups or organizations. This specific provision is found in K.S.A. 1973 Supp. 72-8302(b).

K.S.A. 1973 Supp. 72-8305 provides for the transportation by bus of students and school personnel for field trips, sports events, and other extracurricular activities. The statute provides that the students are to be under school control and

Mark L. McHenry
August 21, 1974
Page Two

discipline. This office has long maintained that the statute covers activities during a school year as defined and that the "suitable adult" who is to accompany those outings is to be an employee of the school system. Therefore, we reluctantly conclude that a strict reading of the statute forbids the use of school buses for the proposed recreational activity.

If we may be of further assistance, please contact us.

Yours very truly,



VERN MILLER
Attorney General

VM:JRM:jsm