



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

December 18, 1975

ATTORNEY GENERAL OPINION NO. 75- 465

Harold Sandell, President
Unified School District #360
Board of Education
Box 231
Caldwell, Kansas 67022

Re: Schools--Transportation of Students

Synopsis: A per mile rate of reimbursement of the parents of a non-resident student for mileage incurred to and from the point of entry into the school district is within the legal parameters of K.S.A. 72-8309.

* * *

Dear Mr. Sandell:

You have requested an opinion from this office concerning whether it is proper for the school district to pay a per mile fee to parents of non-resident students attending district schools. Specifically, parents of non-resident students are reimbursed at the rate of 7-1/2 cents per mile computed on the mileage to and from the point of entry into the district to the school.

On this specific point, K.S.A. 72-8309 provides:

"It shall be unlawful for the board of education of any school district to furnish or provide transportation for students who reside in another school district, without the written consent of the board of education of the school district in which such student resides. A school district may transport a nonresident student, if such student boards the school bus within the bound-

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aries or on the boundary of the transporting school district. Any school district violating the provisions of this section shall not be entitled to participate in the county school foundation fund."

The words "provide or furnish transportation" are defined by K.S.A. 72-8301(c) to mean and include:

" ... the right of a school district to:
(1) Purchase, operate, and maintain public school buses; (2) contract, lease or hire buses for the transportation of students and school personnel; and (3) reimburse persons who furnish transportation to students or school personnel in privately owned motor vehicles."

Interpreted in conjunction with each other, it is clear that reimbursement to parents of non-resident students for the mileage incurred in transporting their children to district schools does not constitute an act prohibited by K.S.A. 72-8309. This statute specifically permits each school district to provide transportation to non-resident students without the written consent of the other board of education of the school district of the student's residence, but only when such transportation is provided from or within the boundaries of the transporting school district. Although K.S.A. 72-8309 specifically addresses itself only to the situation of the non-resident student being transported on a school bus, K.S.A. 72-8304 broadens its scope by providing in pertinent part:

"In those cases where it is impractical to reach a student's residence by the prescribed transportation route, and where such residence is more than one mile by road from the prescribed route; and in those cases where it is impracticable to schedule a school bus for the transportation of a student; the board of education may contract

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for the transportation of such student
to the regularly prescribed school route
or to the school building."

If the school district reimburses the parents of resident students rather than provide bus service in those areas of the school district where K.S.A. 72-8302 imposes an obligation upon the district to furnish transportation and such area includes or is adjacent to the point of entry for the non-resident students, there is neither any logical or nor compelling reason to distinguish between the two types of students for purposes of reimbursement solely on the criteria of "residency". Furthermore, since the words "furnish or provide transportation" are defined broadly enough to include a per mile rate of reimbursement to parents assuming the obligation imposed by K.S.A. 72-8302 on the school district to provide school bus transportation, it is my conclusion based on this discussion that a per mile rate of reimbursement to the parents of a non-resident to and from the point of entry into the district does not conflict with the letter or spirit of K.S.A. 72-8301 et seq., and in particular, K.S.A. 72-8309.

Accordingly, it is the opinion of this office that a per mile rate or reimbursement to the parents of a non-resident student for mileage incurred to and from the point of entry into the school district is within the legal parameters of K.S.A. 72-8309.

Sincerely yours,



CURT T. SCHNEIDER
Attorney General

CTS:HTW:bv