



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

June 23, 1976

ATTORNEY GENERAL OPINION NO. 76- 188

Bill Baldock
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Re: Schools--Transportation of Students--Transportation
of Non-Students in District-Owned or-Operated
School Buses

Synopsis: The board of education may not lease or contract
to provide transportation to non-senior citizen
groups or organizations in district-owned or
operated school buses.

* * *

Dear Mr. Baldock:

K.S.A. 1975 Supp. 72-8302(b) provides in part:

"Any board of education may, pursuant
to rules or regulations adopted by it,
provide by contract with the governing
body of any township, city or county
for transportation of senior citizen
groups or organizations in district-
owned or leased school buses when not
in use for school purposes."

As counsel for the board of education of Unified School District
No. 329, you have inquired as to whether the language of sub-

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section (b) may be construed broadly enough to permit the board to lease district-owned buses to several of the Wabaunsee County municipalities. The express purpose of the proposed leases is the transportation of children to local swimming pools.

Specifically, you inquired whether the contractual arrangement authorized in K.S.A. 1975 Supp. 72-8302(b) is limited to the transportation of only senior citizen groups and senior citizen organizations, or whether it also allows transportation of non-senior citizens organizations. Further, you have asked, notwithstanding the interpretation of K.S.A. 1975 Supp. 72-8302(b), whether the Board may still lease the use of the bus to a city or other legally organized recreation commission for use in a recreation program by persons other than senior citizens, if the Board assumes no responsibility for any transportation which might occur.

In Kansas, school districts have traditionally been viewed as quasi corporations rather than municipal corporations. Beach v. Leahy, 11 Kan. 23 (1874). The distinction lies primarily in the fact that school districts exercise certain corporate functions and powers, but are not expressly incorporated by statute. Thus, school districts are restricted or limited in the corporate powers and prerogatives it may exercise. Generally, the powers of school districts are only those which are expressly conferred or are implied as necessary to the carrying out of the objectives of the pertinent statutory authority. 68 Am. Jur. 2d, Schools, § 15. Thus, the question herein involved becomes whether the pertinent statutory authority, K.S.A. 72-8301 et seq. expressly or by necessary implication confers authority upon the school district, through the board of education, to permit district-owned or -controlled school buses to transport children to non-school related swimming lessons and recreation.

The pertinent laws governing school buses and their operation are generally found at K.S.A. 72-8301 et seq. A thorough examination of the statutes finds neither an express nor implied grant of authority to any board of education to provide by contract or lease bus transportation to any non-school related

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activities of functions except as contained in K.S.A. 1975 Supp. 72-8302(b). The phrase ". . . senior citizen groups or organizations", as found in subsection (b), contains the only express grant of authority for the board to contract with the city or county in providing non-school related bus transportation. Grammatically, it seems beyond much question that the adjectives "senior" and "citizen" were intended to modify both the words "groups" and "organizations". Had the intent behind the use of the word "organizations" been to connote groups other than those for senior citizens, the Legislature could have readily inserted the word "other" before "organization" and accomplished that objective. Effective July 1, 1976, K.S.A. 72-8302(b) has been amended by the 1975 Legislature to read as follows:

"(b) Any board of education may, pursuant to a policy developed and adopted by it, provide by contract with the governing body of any township, city or county for transportation of senior citizen groups or organizations or with the governing authority of any nonpublic school for transportation of pupils attending such nonpublic school to or from interschool or intraschool functions or activities in district-owned or leased school buses when not in use for school purposes."

None of these changes are germane to the issues involved herein. Thus, it is my opinion that the board of education may not lease or contract to provide transportation to non-senior citizen groups or organizations in district-owned or -operated school buses.

In your second question, you inquired whether the district may nevertheless lease district-owned school buses to the city for use in the city's summer recreation program if the district or board of education is released to assumes no liability for the buses' operation. For those reasons cited earlier limiting the school district's and board's corporate

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acts to only those powers, expressly or by necessary implication, granted by statute, I must conclude that the board of education may not lease or contract to provide bus transportation except in those instances specified in K.S.A. 1975 Supp. 72-8302(b).

Sincerely yours,



CURT T. SCHNEIDER
Attorney General

CTS:HTW:bv