



STATE OF KANSAS

## Office of the Attorney General

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**Curt T. Schneider**  
Attorney General

January 28, 1977

ATTORNEY GENERAL OPINION NO. 77- 35

Mr. Charles N. Henson  
Attorney for U.S.D. 501  
Eidson, Lewis, Porter & Haynes  
1300 Merchants National Bank Building  
Topeka, Kansas 66612

RE: Schools -- Transportation -- Buses

SYNOPSIS: A board of education may not furnish or provide transportation for its students pursuant to K.S.A. 1976 Supp. 72-8301 *et seq.* in urban transit buses which are owned and operated by the Topeka Metropolitan Transit Authority or in any bus which does not conform in both design and operation to the statutory requirements relating to school buses, such as K.S.A. 1976 Supp. 8-1556, -1730 and -2009, and regulations of the Secretary of Transportation which are adopted pursuant to K.S.A. 1976 Supp. 8-1730(c).

\* \* \*

Dear Mr. Henson:

You inquire whether Unified School District No. 501 may provide or furnish transportation to its students pursuant to K.S.A. 1976 Supp. 72-8301 in urban transit buses owned and operated by the Topeka Metropolitan Transit Authority.

The term "school bus" is defined by both K.S.A. 1976 Supp. 72-8301, as a part of the act authorizing boards of education to furnish transportation to their students, and in the Uniform Act Regulating Traffic on Highways, K.S.A. 8-1401 *et seq.*, at K.S.A. 1976 Supp. 8-1461. The definition under the former statute, provides thus:

"'School bus' means every motor vehicle owned by a school district and operated for the transportation of pupils, students or

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school personnel to or from school or to  
or from interschool or intraschool functions  
or activities, and every motor vehicle pri-  
vately owned and primarily operated for  
such transportation of pupils . . . ."

This provision includes only motor vehicles which are owned by the school district, and other vehicles which are "privately owned and primarily operated" for the transportation of pupils. The definition clearly does not include motor vehicles which are publicly owned, i.e., owned by a public or governmental agency other than the school district itself. Thus, transit buses owned by the Topeka Metropolitan Transit Authority do not fall within this definition, simply by reason of public ownership.

K.S.A. 1976 Supp. 72-8308 provides thus, in pertinent part:

"In all cases, where a board of education shall furnish or provide transportation of students under the provisions of this act, all school buses shall conform to the requirements and be operated in accordance with the uniform act regulating traffic on highways and the regulations adopted by the Secretary of Transportation."

Thus, in any instance in which a board of education furnishes or provides transportation for its students, the vehicles so employed must conform with the definition in K.S.A. 1976 Supp. 72-8301. Transit Authority buses are not privately owned vehicles, nor owned by the district, and do not fall within the definition.

A broader definition of the term appears in the Uniform Act Regulating Traffic on Highways, at K.S.A. 1976 Supp. 8-1461 to include

"every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school, or to or from interschool or intraschool functions or activities, and every motor vehicle privately owned and primarily operated for such transportation of children . . . ."

This definition does include vehicles owned by public and governmental agencies, insofar as the term is defined for the purposes of the Uniform Act, and otherwise, is identical to that found in K.S.A. 1976 Supp. 72-8301. However, as pointed out above, in any instance in which a board of education furnishes or provides transportation for its students, the vehicles so employed must conform with the definition in K.S.A. 1976 Supp. 72-8301.

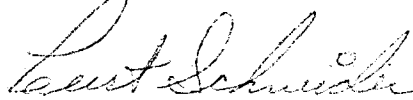
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Certain other provisions appear to prohibit the use of urban transit buses as "school buses" under either definition. K.S.A. 1976 Supp. 8-1730(a) and (b) specify certain signal lamp requirements which must be met by any vehicle used as a "school bus" as defined in either K.S.A. 1976 Supp. 72-8301 or 8-1461. In addition, K.S.A. 1976 Supp. 8-2009(a) now commences thus:

"All seats on school buses shall be forward-facing and shall be securely fastened to that part or parts of the school bus which support them, and any rule or regulation of the secretary providing for any other seating arrangement shall be null and void."

In short, it is my opinion that the board of education may not provide or furnish transportation for its students pursuant to K.S.A. 1976 Supp. 72-8301 *et seq.* in urban transit buses which are owned and operated by the Topeka Metropolitan Transit Authority or in any bus which does not conform in both design and operation to the statutory requirements relating to school buses, such as K.S.A. 1976 Supp. 8-1556, -1730 and -2009, and regulations of the Secretary of Transportation which are adopted pursuant to K.S.A. 1976 Supp. 8-1730(c).

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:en