

#### ARTICLE IV

4.1. Construction Contracts. It is recognized by the parties hereto that prior to the execution hereof Tenant owned the Land and that during said period of ownership Tenant entered into a contract or contracts for the construction of the buildings and improvements on the Land in accordance with plans and specifications prepared by or at the direction of Tenant. Said contracts are hereinafter referred to as the "Construction Contracts". Prior to the execution hereof, certain work has been or may have been performed on and to the Facility pursuant to said Construction Contracts or otherwise. Tenant has concurrently with the execution hereof assigned, conveyed and transferred and does hereby assign, convey and transfer to Landlord the Land and Tenant's rights, titles, interests and estates in and to the buildings and all improvements and work performed or in progress on the Land. Said assignment, conveyance and transfer, and Landlord's acquisition from Tenant, are and shall be subject to said Construction Contracts. After the execution hereof, Tenant shall cause the Construction Contracts to be fully performed by the contractor(s) thereunder in accordance with the terms thereof, and Tenant covenants to cause said buildings and improvements to be constructed and completed in accordance with the Construction Contracts. Tenant warrants that the construction of said buildings and improvements in accordance with said Construction Contracts will result in a Facility suitable for use by Tenant for its purposes.



STATE OF KANSAS

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October 16, 1979

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ATTORNEY GENERAL OPINION NO. 79- 229

Donald P. Little, Superintendent  
Rural Vista U.S.D. No. 481  
Hope, Kansas 67451

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

Synopsis: A board of education may not permit school district  
buses, when not in use for school purposes, to be  
used to transport persons other than those specified  
in K.S.A. 1978 Supp. 72-8302(b).

\* \* \*

Dear Mr. Little:

As superintendent of Rural Vista U.S.D. No. 481, you request  
our opinion as to whether your school district buses may be  
used for transporting persons other than students and school  
personnel to and from non-school related functions.

The school transportation statutes are found at K.S.A. 72-8301  
et seq. Of particular relevance to your inquiry is K.S.A.  
1978 Supp. 72-8302(b), which states in pertinent part:

"Any board of education may, pursuant  
to a policy developed and adopted by it,  
provide for the use of district-owned or  
leased school buses when not in use for  
school purposes by contracting with (1)  
the governing body of any township, city  
or county for transportation of senior  
citizen groups or organizations, or (2)  
the governing authority of any nonpublic

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school for transportation of pupils attending such nonpublic school to or from interschool or intraschool functions or activities, or (3) the board of trustees of any community junior college for transportation of students attending such community junior college to or from functions or activities of such community junior college." (Emphasis added.)

In our opinion the provisions of K.S.A. 1978 Supp. 72-8302(b) are clear, and allow the use of district-owned or leased buses only for the purposes specifically enumerated therein. According to the Kansas Supreme Court in State, ex rel., v. Rural High School District No. 7, 171 Kan. 437 (1951):

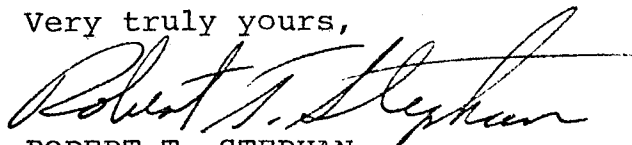
"In this state it has long been the rule that school districts . . . have only such powers as are conferred upon them by statute, specifically or by clear implication, and that any reasonable doubt as to the existence of such power should be resolved against its existence." Id. at p. 441.

In addition, the Court in Helberg v. Hoxie Unified School District, 203 Kan. 797 (1969), in discussing school transportation statutes, said:


"[T]ransportation statutes are to be strictly construed and cannot be interpreted to give implied authority . . . ." Id. at 801 [following Carothers v. Board of Education, 153 Kan. 127 (1941).]

Based on the foregoing authorities, it is our opinion that when school district buses are not needed for school purposes, the board of education of a school district may permit said buses to be used only to transport those persons, and for those purposes, particularly specified in K.S.A. 1978 Supp. 72-8302(b).

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Rodney J. Bieker  
Assistant Attorney General