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January 12, 1981

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ATTORNEY GENERAL OPINION NO. 81- 6

Mr. David W. Kester  
Director, Legal Services Section  
Kansas Department of Education  
120 East Tenth Street  
Topeka, Kansas 66612

Re: Schools--Transportation of Students--Misbehavior  
on School Buses

Synopsis: A school district, while complying with state law, may discipline a child for "misbehaving" on a school bus by refusing to continue to furnish transportation for the child to and from school in the regular school buses. However, the school district must provide transportation for the child by employing any one of the alternative methods prescribed by law, one of which is to reimburse the child's parents for transporting the child to and from school, as provided in K.S.A. 72-8301(c)(5).

In addition, if the behavior of a child is such as to be encompassed within the provisions of K.S.A. 72-8901, which specify the grounds upon which a child may be suspended or expelled from school, the school district can resort to such action as a means of disciplining the child. Cited herein: K.S.A. 72-8301, 72-8302, 72-8901.

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Dear Mr. Kester:

You seek our opinion on "whether school districts have the authority to 'kick-off' or temporarily or permanently suspend misbehaving students from bus transportation to and from school."

It is firmly established that school authorities have the right to provide reasonable means of disciplining children for mis-

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behavior while such children are under the control of the school. In Ingraham v. Wright, 430 U.S. 651, 97 S.Ct. 1401, 51 L.Ed.2d 711 (1976), the Court said:

"Assessment of the need for, and the appropriate means of maintaining, school discipline is committed generally to the discretion of school authorities subject to state law. '[T]he Court has repeatedly emphasized the need for affirming the comprehensive authority of the States and of school officials, consistent with fundamental constitutional safeguards, to prescribe and control conduct in the schools.' Tinker v. Des Moines School Dist. 393, U.S. 503, 507, 21 L.Ed.2d 731, 89 S.Ct. 733, 49 Ohio Ops.2d 222 (1969)." (Footnote omitted and emphasis added.) 430 U.S. at 682-683.

That children who are provided transportation by school buses are under the control and discipline of the school is made clear by the provisions of K.S.A. 72-8305, which specify that even when children are merely being provided transportation by school buses to extracurricular activities, "[a]ll students so transported shall be under school control and discipline . . ." Therefore, it is our opinion that school authorities may provide appropriate means of maintaining discipline on school buses. However, it further is our opinion that the means selected must be consistent with state law and, certainly, cannot have the effect of relieving a school district of a duty imposed upon it by law.

Subsection (a) of K.S.A. 72-8302, provides:

"The board of education of any school district may provide or furnish transportation for students to or from any school of the school district. Every school district shall provide or furnish transportation for every pupil who resides in the school district and who attends any of grades kindergarten through twelve at a school of the school district . . . [in certain cases]."  
(Emphasis added.)

In clear and unambiguous language, this statute requires every school district to provide or furnish transportation for certain of its students. No exception is provided expressly in the law, and it is our opinion that no exception can be implied in the law. Thus, there is a duty on the part of every school district to provide or furnish transportation to those students whose residence entitles them to such transportation. Given this duty, it is our opinion that a school district may not refuse to provide

or furnish transportation to those students who are entitled to such transportation under the provisions of K.S.A. 72-8301 et seq., as a means of disciplining a child for "misbehaving" on a school bus.

However, under the school transportation statutes, K.S.A. 72-8301 et seq., a school district is not required to provide school bus transportation to and from school. In said statutes, the words "provide or furnish transportation" mean:

"[T]he right of a school district to: (1) Purchase, operate and maintain school buses and other motor vehicles; (2) contract, lease or hire school buses and other motor vehicles for the transportation of pupils, students and school personnel; (3) purchase, operate and maintain buses other than school buses for the transportation of pupils, students or school personnel to or from school-related functions or activities; (4) contract, lease or hire buses other than school buses for the transportation of pupils, students and school personnel if said buses are owned and operated by a public common carrier of passengers under a certificate of convenience and necessity granted by the state corporation commission or the interstate commerce commission and are operating within the authority granted to said public common carrier; and (5) reimburse persons who furnish transportation to pupils, students or school personnel in privately owned motor vehicles." K.S.A. 72-8301(c).

A school district, therefore, can fulfill its statutory obligation to transport students to and from school by employing any of the alternative methods prescribed in K.S.A. 72-8301. Such fact has long been recognized in the State of Kansas. See Harkness v. School District, 103 Kan. 573, 575 (1918). Consequently, a school district, while complying with state law, may discipline a child for "misbehaving" on a school bus by refusing to allow the child to be transported to and from school in the regular school buses. However, the school district must provide transportation for the child by employing any one of the alternative methods prescribed by law.

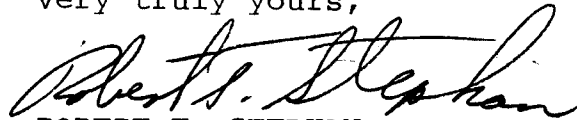
In addition, if the behavior of the child is such as to be encompassed within the provisions of K.S.A. 72-8901, which specify the grounds upon which a child may be suspended or expelled from school, the school district could resort to such action as a means of disciplining the child.

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Of course, consistent with the Court's holding in Ingraham, supra, a school district can employ such other reasonable and appropriate means of maintaining discipline as in the discretion of the school authorities is necessary, so long as the means selected are consistent with state law.

Thus, in answer to your inquiry, it is our opinion that as long as a child is not suspended or expelled from school and is entitled to have transportation provided to him or her under the provisions of K.S.A. 72-8301 et seq., school authorities may not refuse to provide or furnish transportation to such child as a means of disciplining the child for "misbehaving" on a school bus. However, other means of disciplining a child, such as those mentioned hereinabove, are available to school authorities.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Rodney J. Bieker  
Assistant Attorney General

RTS:BJS:RJB:jm