



STATE OF KANSAS

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CURT T. SCHNEIDER
Attorney General

August 28, 1975

ATTORNEY GENERAL OPINION NO. 75-328A

Mr. Merle R. Bolton
Commissioner of Education
State Department of Education
120 East 10th Street
Topeka, Kansas 66612

Re: Schools--Transportation

Synopsis: The board of a unified school district may not calculate for purposes of reimbursement expenditures for gasoline to operate a school bus owned and operated by parents of students used to transport nonresident pupils of the district to school.

* * *

Dear Commissioner Bolton:

I write concerning Opinion No. 75-328, issued to you under date of August 14, 1975. The question considered there was whether a unified school district may include in its transportation costs for state aid reimbursement the expenditure for gasoline which is used in a school bus to transport pupils who attend the school. We concluded that the expenditure of funds for gasoline for that purpose, used in a bus not owned by the district but owned cooperatively by a group of students, was a permissible expense of transportation, which may be considered and computed under K.S.A. 1974 Supp. 72-7039a and -7047(f) in determining state aid for reimbursement.

We understand that, with some irritation, a school official in Belleville has called attention to K.S.A. 72-8309, which provides in pertinent part thus:

"It shall be unlawful for the board of education of any school district to furnish or provide transportation for students

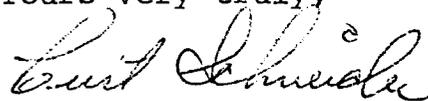
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who reside in another school district, without the written consent of the board of education of the school district in which such student resides. A school district may transport a nonresident student, if such student boards the school bus within the boundaries or on the boundary of the transporting school district."

Unfortunately, we overlooked this section in preparing the earlier opinion to you. In furnishing the gasoline, in the instance described above, or reimbursing the costs thereof, the district is in effect providing transportation at the expense of public funds, in our judgment, and inasmuch as such expenditures are prohibited by K.S.A. 72-8309, we cannot but conclude but that such expenses may not be considered as a permissible expense of transportation which may be considered and computed under K.S.A. 1974 Supp. 72-7039a and -7047(f) in determining state aid for reimbursement.

We regret having overlooked this provision, and any inconvenience this error may have caused you. However, we are required to correct the views stated in the earlier opinion, and withdraw it herewith.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj