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July 6, 1981

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ATTORNEY GENERAL OPINION NO. 81-153

David W. Kester, Director
Legal Services Section
Kansas State Department of Education
120 East 10th Street
Topeka, Kansas 66612

Re: Schools--Transportation of Students--Inclusion
of Nonpublic School Students in Determining
"Per-pupil Cost of Transportation"

Synopsis: Children who are enrolled in and attend public schools on a part time basis are "pupils," as that term is defined in K.S.A. 72-7033, as amended by L.1981, ch. 287, §1. If transportation is provided for such children by the public school district, such children are to be considered in determining a school district's "per-pupil cost of transportation," under the provisions of K.S.A. 72-7039(a). Cited herein: K.S.A. 72-7033, as amended by L.1981, ch. 287, §1; K.S.A. 72-7039; 72-7047.

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Dear Mr. Kester:

Previously, you requested our opinion concerning the transportation of children who attend nonpublic schools, and the manner in which state transportation aid is to be determined in regard to such children. In response, we issued Opinion Nos. 81-25, dated January 23, 1981, and 81-120, dated May 28, 1981. You now request clarification of another aspect of transportation aid concerning these children.

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Your latest inquiry concerns children who are regularly enrolled in a nonpublic school, but who also are enrolled in and attend a public school for one or more hours a day and for whom transportation on a district school bus to and from school is provided, as required by K.S.A. 72-8306(a). Your question is whether these children should be counted in determining the amount of state transportation aid a school district is to receive under the provisions of K.S.A. 72-7047.

Under the provisions of K.S.A. 72-7047, the state board of education is charged with the duty of computing the amount of state transportation aid each school district is to receive. The manner for computing such aid is prescribed therein and involves the use of a "density-cost graph." One component of the graph is "the per-pupil cost of transportation." This latter term is defined in K.S.A. 72-7039(a), as follows:

"'Per-pupil cost of transportation' means the per-pupil cost of transportation of the district as such cost is determined and adjusted each school year by the state board as follows: (1) Determine the total expenditures of the district during the preceding school year from all funds for transporting pupils of public and nonpublic schools on regular school routes. (2) Divide the amount determined in (1) by the total number of pupils for whom transportation was made available by the district on September 15 of the preceding school year. (3) Multiply the amount determined in (2) by the total number of pupils who, on September 15 of the preceding school year, were residing in the district and less than two and one-half (2 1/2) miles by the usually traveled road from the school house they attended and for whom transportation was made available by the district. (4) Multiply the amount determined in (3) by fifty percent (50%). (5) Subtract the amount determined in (4) from the amount determined in (1). (6) Divide the amount determined in (5) by the total number of pupils who, on September 15 of the preceding school year, were residing in the district and two and one-half (2 1/2) miles or more by the usually traveled road from the school house they attended and for whom transportation was made available by the district. The quotient is the per-pupil cost of transportation." (Emphasis added.)

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Your current inquiry is whether children who are enrolled in and attend nonpublic schools, but who also are enrolled in and attend a public school for the purposes of taking one or more classes, are "pupils," as said term is employed in the above-quoted statute.

The term "pupil" is defined in subsection (a) of K.S.A. 72-7033, as amended by L.1981, ch. 287, §1. Said subsection provides:

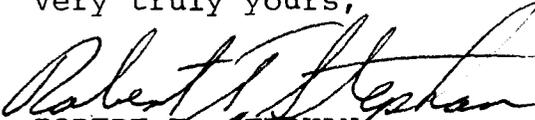
"'Pupil' means any person who is regularly enrolled in any of the grades kindergarten through 12 of a district. Any pupil who is not regularly enrolled full time shall be counted as that proportion of one pupil (to the nearest 1/10) that the pupil's regular enrollment bears to full-time regular enrollment. A pupil enrolled in kindergarten shall be counted as 1/2 pupil. Any pupil enrolled in and attending any area vocational school, area vocational-technical school or approved vocational education program shall be counted as one pupil if such pupil's vocational education enrollment and attendance and regular enrollment and attendance in any of grades nine through 12 is at least 5/6 time, otherwise any such pupil shall be counted as that proportion of one pupil (to the nearest 1/10) that the total time of the pupil's non-vocational education enrollment and vocational education enrollment bears to full-time enrollment. Any pupil enrolled in and attending special education services provided for by the district shall be counted as one pupil. The word 'pupil' shall not include any pupil enrolled in the district but housed, maintained, and receiving special education services at a state institution." (Emphasis added.)

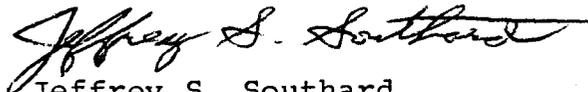
In our opinion, the above-emphasized language answers your inquiry. While the children about whom you inquire are not regularly enrolled "full time" in any of the grades kindergarten through 12 of a district, they nonetheless are enrolled "part time" in one of those grades. Thus, such children are to be "counted as that proportion of one

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pupil (to the nearest 1/10) that the pupil's regular enrollment bears to full-time regular enrollment" for purposes of determining state transportation aid under K.S.A. 72-7039 and 72-7047.

Very truly yours,


ROBERT T. STEPHAN
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RTS:BJS:JSS:jm