

# MAINE STATE LEGISLATURE

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October 25, 1963  
School Administrative Services  
Education

Asst A. Gordon, Director

John W. Benoit, Assistant

Attorney General

**Transportation of Children of Compulsory School Age.**

Your memorandum of September 17, 1963 is hereby acknowledged.

**FACTS:**

Section 92 of Chapter 41 of the Revised Statutes of 1954, as amended, sets the compulsory school age as being between the 7th and the 15th anniversaries of the child's birth.

**QUESTION:**

Must an administrative unit provide transportation for pupils living beyond a reasonable walking distance from a given school as long as the pupils involved are of compulsory school age?

**ANSWER:**

Because of the broad language of the question and of the attending plural answers thereto, such answers are stated in the reason.

**REASON:**

An applicable provision of law relative to the conveyance of elementary school pupils is as follows:

" . . . . The superintendent of schools in each town shall procure the conveyance of all elementary school pupils residing in his town, a part or the whole of the distance, to and from the nearest suitable school, for the number of weeks for which schools are maintained in each year, when such pupils reside at such a distance from the said school as in the judgment of the superintending school committee shall render such conveyance necessary. In all cases, conveyance so provided shall conserve the comfort, safety and welfare of the children conveyed and shall be in

charge of a responsible driver who shall have control over the conduct of the children conveyed. Contract for said conveyance may be made for a period not to exceed 5 years. Provided, however, that the superintending school committee may authorize the superintendent of schools to pay the board of any pupil or pupils at a suitable place near any established school instead of providing conveyance for said pupil or pupils, when in their judgment it may be done at an equal or less expense than by conveyance.

"Whenever a parent or guardian having children of compulsory school age in his care domiciles such children in a location remote from and inaccessible to schools or public highways, he shall be personally responsible for the cost of boarding these children within walking distance to an established public school or for providing suitable conveyance to a public highway. Failure to do provide conveyance or board shall be considered a violation of the truancy law and punished accordingly." R. S., c. 41, § 14, as amended.

An applicable provision of law relative to the conveyance of secondary school pupils is as follows:

". . . Any administrative unit may, in addition to the sums raised for the support of high and public schools, raise and appropriate a sum for the payment of conveyance or board of pupils attending secondary schools, said sum to be expended under the direction of the superintending school committee. In cases of pupils who reside on islands within administrative units and on which there is no secondary school and from which

regular transportation lines are established and in operation, said administrative units shall pay transportation charges of said children. Such transportation shall be over regular lines, at not to exceed regular fares and no subsidy. Transportation lines shall have the privilege of establishing such school fares, not to exceed the regular fare, as may be agreed upon by the officials of said transportation lines and the school directors or school committee of the administrative unit of which said islands are a part. . . ." R. S., c. 41, § 101, as amended.

An applicable provision of law relative to the transportation of pupils in a community school district is as follows:

"Transportation shall be provided by the community school committee in the same manner as is provided for transportation of elementary school pupils in section 14, the expenditures for transportation to be considered an expense of operation of said school or schools." R. S., c. 41, § 119.

#### Elementary School Pupils:

Elementary school pupils are provided with conveyance to and from the "nearest suitable school" when the superintending school committee deems such conveyance to be a necessity. Note that the exercise of judgment by the superintending school committee renders the matter one of local import. In other words, the State is not to submit its judgment for the judgment of the local school committee. Notice that the superintending school committee need not supply conveyance when a payment of board is judged to be an equal or a less expensive disposition.

Asa A. Gordon  
Education

-4-

October 25, 1963

Too, an administrative unit need not provide conveyance for pupils living in a remote and inaccessible area of the town. In such cases, the parents must either board their children within walking distance of the school or transport them to a public highway. The answer to the question whether conveyance shall be provided is not made dependent upon the ages of the pupils involved but rather is predicated upon a finding that the same is necessary; and, as has been decreed by the Legislature, in certain instances conveyance need not be provided even though the pupils reside beyond a reasonable walking distance from a given school.

Secondary School Pupils:

The Legislature has decreed that administrative units may raise and appropriate moneys as payment for either board or conveyance of secondary school pupils. Generally, then, the supplying of conveyance in this area is discretionary. The caveat to the general rule is that the cost of transportation of pupils residing on islands within administrative units must be borne by the administrative unit if no secondary school exists on the island and if a regular transportation line links the island to the mainland (the administrative unit.)

Addendum:

Related opinions of this office are: December 17, 1934 (Superintending school committee's duty to provide conveyance where necessary.); April 4, 1916 (An error in exercise of judgment by a school committee.)

Respectfully yours,

John W. Benoit  
Assistant Attorney General

JWB/slf