

N.D.A.G. Letter to Jones (July 11, 1985)

July 11, 1985

Mr. Wayne P. Jones
Ransom County State's Attorney
Ransom County Courthouse
Lisbon, ND 58054

Dear Mr. Jones:

Thank you for your letter of May 24, 1985, in which you asked whether a public school district must provide two-way transportation for kindergarten students when kindergarten is offered by the school district for half days. I have reviewed the correspondence which you have provided to me, and it indicates that an additional issue is whether this transportation must be provided mid-day when kindergarten class apparently ends.

N.D.C.C. § 15-34.2-01, provides, as follows:

15-34.2-01. VEHICULAR TRANSPORTATION OR LODGING MAY BE FURNISHED AT OPTION OF SCHOOL BOARD. The school board of any school district in the state, in its discretion, may furnish to each family living in the district:

1. Vehicular transportation; or
2. The equivalent of the payments specified in section 15-34.2-03 in lodging at some other public school if the same is acceptable to the family.

The board shall not accord the benefits of either subsection 1 or subsection 2 to any family which is receiving payments under section 15-34.2-03. In the event any school board elects to furnish vehicular transportation by public conveyance, the distance that each student must reside from his school in order to be entitled to such transportation may be determined by the school board in each district, but all students in the district shall be treated on the same basis in accordance with such determination. The furnishing of benefits under this chapter may be extended to families living in the district for the purpose of transporting students to another school district or county agricultural and training school within the state, if the attendance of such students in the other districts is in accordance with the provisions of this title governing the same. (Emphasis supplied).

N.D.C.C. § 15-34.2-03, allows the school board of any school district to pay each family, in its discretion, a transportation payment in lieu of actual vehicular transportation in accordance with a specific formula. The statute further provides that the distance a student must reside from the school to be eligible for transportation must be determined by the school board and that all students which reside that distance from the school must be treated the same.

Although N.D.C.C. § 15-34.2-01, is not completely clear on this question, it is my opinion that this section and N.D.C.C. § 15-29-08(2), which gives the school board the power "[t]o organize, establish, operate, and maintain such elementary and high schools as it may deem requisite and expedient. . ." gives the school board the authority to provide vehicular transportation to and from school and to determine at what times these bus routes will run. Certainly, kindergarten students are entitled to vehicular transportation to and from school if they live the required distance from the school. But nothing in the statutes requires the school board to provide transportation at any particular time of the day. Thus, a situation could arise where kindergarten students end their school day at noon and the bus transportation from the school to their home is not provided until 3:30 p.m. Because of this, the Department of Public Instruction recommends that kindergarten be operated for 90 full days of one semester or on a staggered full-day basis for the entire year, although the school board does have the authority to offer kindergarten on a half-day basis. See N.D.C.C. § 15-45-02.

N.D.C.C. § 15-34.2-01 could be more clear and I believe this problem should be brought to the attention of the next Legislative Assembly. As you recognize, it works a hardship on rural families if they have to pick up their children at noon to avoid having the children wait several hours for bus transportation home. I am sympathetic to the plight of these families and recommend that a legislative solution be sought to this dilemma.

Sincerely,

Nicholas J. Spaeth

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