

Date Issued: July 28, 1981 (AGO 81-78)

Requested by: Rolland Larson, Director of Pupil Transportation  
Department of Public Instruction

- QUESTION PRESENTED -

Whether section 15-34.2-03 of the North Dakota Century Code provides for a transportation payment based on the distance from the school to the home, less two miles, without regard to a return trip.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that section 15-34.2-03, N.D.C.C., provides for a transportation payment based on the distance from the school to the home, less two miles, without regard to a return trip.

- ANALYSIS -

Section 15-34.2-03, N.D.C.C., provides:

15-34.2-03. TRANSPORTATION - PAYMENT OPTIONAL WITH SCHOOL BOARD - SCHEDULE. The school board of any school district in the state may pay, in its discretion, to each family living more than two miles from a school in the district which is taught the required length of time, a sum per day for each day's attendance of a student or students of such family, when transported by a member of the family or by a conveyance furnished or paid for by the family, or when the family has paid for lodging for the child, according to the distance between the home of the family and the school, at the rate of ten cents per day for each one-half mile over two miles. Such distance shall be measured by the route from the front door of the nearest operating school to the front door of the family's residence according to the most convenient public course of travel. Payments for transportation shall not be limited to the amount set forth in this section where the student or students are required to be transported to another school because the school which they had been attending is closed. (Emphasis supplied).

Section 1-02-05, N.D.C.C., states that "when the wording of a statute is clear and free of all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit."

Section 15-34.2-03, N.D.C.C., states that the transportation payment shall be based on the distance from the school to the home less two miles. There is no language which provides for transportation payment for a return trip. The legislative history of this section provides no insight as to the legislative intent regarding transportation payments for return trips.

In Reich v. Dietz School Dist. No. 16 of Grant County, 55 N.W.2d. 638 (N.D. 1952), the North Dakota Supreme Court reviewed a transportation payment under a statute similar to the present statute. The Court based the payment on the distance from the plaintiff's residence to the school and not on the mileage traveled by plaintiff in transporting his children to and from school.

This opinion corrects a statement found in Attorney General's Opinion 81-52, dated June 2, 1981, which stated that transportation payments shall be paid "at a rate not to exceed ten cents per day for each one-half mile driven over two miles each way."

- EFFECT -

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

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Attorney General

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