

From the office of:
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DEPARTMENT OF LAW AND PUBLIC SAFETY
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Dr. Carl L. Marburger, Commissioner
Department of Education
225 West State Street
Trenton, New Jersey 08625

Dear Commissioner:

The Department of Education has requested the advice of the Office of the Attorney General with respect to the application, under various circumstances, of L. 1967, c. 74, which amended R.S. 18:14-8 and 14-8.1. The following are the answers of this office to the questions presented. For convenience and clarity, they are listed seriatim. A detailed analysis and discussion of R.S. 18:14-8 and 14-8.1, both before and after their amendment by L. 1967, c. 74, will be transmitted to the Department as soon as possible. This office has been unable, due to an emergency, to prepare that analysis to accompany these questions. However, we believe that these answers will most likely provide sufficient guidance with respect to several of the inquiries which the Department has received.

"1. A school district provides no transportation under R.S. 18:14-8 for public school pupils living remote from their schools. It does, however, pursuant to R.S. 18:14-8.1, provide transportation to public school pupils living less than remote. Under such circumstance is the school district now obligated to furnish transportation for non-public school pupils living less than remote from their school?"

In our opinion the school district will not be obligated to furnish transportation to non-public school pupils living less than remote from their schools. However, the school district now has the authority and may furnish such transportation in accordance with law and the rules and regulations of the State Board of Education. In no event will such transportation, be it for public or non-public school children, be eligible for state aid.

"2. A school district provides no remote transportation for its public school pupils. It will provide transportation for both public and non-public school pupils who live less than remote, under R.S. 18:14-8.1. Under such circumstance will the district now be required, although exempt otherwise, to furnish transportation to non-public school pupils who live remote?"

In our opinion the school district will not be obligated to provide transportation to non-public school pupils living remote from their schools. The only time a school district is obligated to transport non-public school children living remote from their school is if the school district furnishes transportation to public school

children living remote from the school, pursuant to R.S. 18:14-8.

"3. A school district provides no pupil transportation of any kind. May the district, in its discretion, now provide transportation to non-public school pupils who live remote, even though it is not obligated to do so? If the answer is affirmative, would such transportation be eligible for State aid?"

In our opinion the school district may not, in its discretion, provide transportation to non-public school pupils who live remote from their schools. Transportation of non-public school children pursuant to R.S. 18:14-8 is mandatory in nature, but that duty only arises where the school district transports remote public school children pursuant to that section.

"4. A school district provides no pupil transportation of any kind. May the board, in its discretion and at local expense, provide transportation to non-public school pupils who live less than remote even though such service is not furnished to public school pupils?"

In our opinion a school district has the authority, pursuant to R.S. 18:14-8.1, to provide transportation to non-public school pupils who live less than remote from their schools even though such service is not furnished to public school pupils. Such discretionary transportation of non-public school children only must, however, be in accordance with law and the rules and regulations of the State Board of Education.

"5. A school district transports remote public school pupils to a county vocational school. It provides no other transportation within the district. Non-public school pupils have, in the past, been furnished transportation along such portion of the established public vocational school routes as advantaged them. Is the district now relieved of the obligation to furnish transportation to these non-public school pupils under the provisions of Chapter 74, Laws of 1967?"

In our opinion a school district which transports remote public vocational school students has no obligation to transport non-public school students who live remote from their schools. The only time a school district is obligated to transport remote non-public school children is when transportation is provided to remote public school children pursuant to R.S. 18:14-8. L. 1967, c. 74, expressly relieved school districts of that obligation with respect to vocational schools.

"6. May a school district, in its discretion, provide transportation to non-public school pupils whose place of residence is more than 20 miles from the school they attend even though not obligated to do so?"

In our opinion a school district has no authority to provide transportation to non-public school pupils whose place of residence is more than 20 miles from their schools.

Very truly yours,
ARTHUR J. SILLS
Attorney General

BY: _____ (signed)
Stephen G. Weiss
Deputy Attorney General