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Declaratory Ruling #19
(Cite as 1 D.P.I. Dec. Rul. 40)

May 4, 1978

Superintendent James W. Rhode
Sutherland Community School District
Sutherland, Iowa 51058

Dear Superintendent Rhode:

Your "Petition for Declaratory Ruling" was filed in my office on February 24, 1978. In it you raise two questions regarding the use of a driver education car. Your questions are as follows:

Specifically, is it in violation of the Code of Iowa to use the driver education car to transport rural students to class instruction and/or car instruction and back to the student's (sic) home?

If the answer to the above question is negative, does the driver education car have to be equipped (sic) to meet all regulations required of a school bus, including a chauffeur's (sic) license and bus driver's (sic) permit for the driver?

I can find nothing in Iowa law which leads me to the conclusion that driver education cars cannot be used to transport rural students to class or to street or highway laboratory instruction. My response to the first question is in the negative.

In response to the second question, I must respond in the affirmative. I know that this response possibly negates any benefit to a school district resulting from my response to your first question; however, I have been unable to determine any other satisfactory answer. Section 321.1, subsection 27, the Code 1977, defines "school bus," and the provisions of that subsection follow:

"School bus" means every vehicle operated for the transportation of children to or from school, except vehicles which are: (a) Privately owned and not operated for compensation, (b) Used exclusively in the transportation of the children in the immediate family of the driver, (c) Operated by a municipally or privately owned urban transit company for the transportation of children as part of or in addition to their regularly scheduled service, or (d) Designed to carry not more than nine

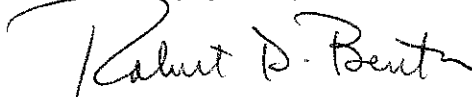
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persons as passengers, either school owned or privately owned, which are used to transport pupils to activity events in which the pupils are participants or used to transport pupils to their homes in case of illness or other emergency situations. The vehicles operated under the provisions of paragraph "d" of this section shall be operated by employees of the school district who are specifically approved by the local superintendent of schools for the assignment.

It is clear under that definition that any vehicle operated for the purpose of taking children to and from school is a "school bus" unless the vehicle is specifically exempted. I do not feel that any of the enumerated exceptions would include a driver education car used to transport students to and from class and laboratory instruction. Thus, a driver education car so utilized must be considered a school bus and must conform to all legal requirements of a school bus, and the driver of the vehicle must possess a chauffeur's license and school bus driver's permit. See 1964 O.A.G. 328.

Although you did not request a response on other points, I feel inclined to remind you of several other matters to consider: First, I have been advised that most automobile dealer loan agreements for the use of driver education cars provide that the vehicle loaned may be used only for purposes of instruction; second, your School District's liability insurance policy may contain provisions bearing on the subject; third, providing transportation for driver education students may be improper unless transportation is provided on a similar basis for other school programs; and fourth, the utilization of the driver education car for transportation to and from class and laboratory instruction may interfere with the driver education instructional program. I would suggest you investigate and consider these additional matters before you decide whether or not to utilize the driver education car in the manner you have outlined.

Sincerely yours,



Robert D. Benton, Ed.D.
State Superintendent of Public Instruction

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