



Iowa
a place to grow

STATE OF IOWA • DEPARTMENT OF PUBLIC INSTRUCTION

GRIMES STATE OFFICE BUILDING • DES MOINES, IOWA 50319

ROBERT D. BENTON, Ed.D., STATE SUPERINTENDENT

November 29, 1976

Declaratory Ruling #10
(Cite as 1 D.P.I. Dec. Rul. 21)

Dale L. Grabinski, Ph.D.,
Superintendent of Schools
West Des Moines Community
School District
1101 5th Street
West Des Moines, Iowa 50265

Dear Dr. Grabinski:

Your Petition for Declaratory Ruling was filed with my office on October 26, 1976. In it, you describe a situation where elementary school students reside approximately two miles from school. The measured distance of one route from the student's home to school is 1.8 miles, but no sidewalks exist along this route. The measured distance along another route on which there are sidewalks is 2.1 miles. A dispute has arisen over the proper route to be used to determine whether free school bus transportation must be provided under West Des Moines School Board policies.

The specific questions you raise are as follows:

- 1). Should the children in question referred to above be provided free transportation? The answer to this question is dependent upon the meaning of the above quoted board policy which is patterned after Section 285.1(9) and the meaning of Section 285.1(1) itself. Therefore,
- 2). What is the meaning of the words "Distance . . . shall . . . be measured on the public highway only and over the most passable and safest route . . ."

Because the West Des Moines Board policies closely parallel the state statute on this point, I quote the relevant portion of Section 285.1, subsection 9, The Code 1975 here:

Distance to school or to a bus route shall in all cases be measured on the public highway only and over the most passable and safest route as determined by the area education agency board, starting in the roadway opposite the private entrance to the residence of the pupil and ending in the roadway opposite the entrance to the school grounds or designated point on bus route.

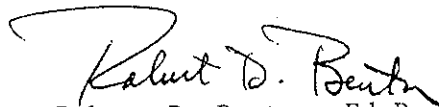
November 29, 1976

Because your second question is dispositive of the first, I will deal with your questions out of order. The statutory provision quoted above has been the cause of much confusion over the years. However, it has been a policy of long standing in this Department to read the statute to mean that the distance is to be measured only by the public highway which is the "most passable and safest," and not take available pedestrian routes into consideration. Pedestrian routes would be susceptible to changes in the weather and use of land across which a pedestrian route might be established. I feel that the Department's interpretation of the statute is further justified by the fact that the starting place for measurement is "in the roadway opposite the private entrance to the residence of the pupil" and the ending place of measurement is the "roadway opposite the entrance to the school grounds." It would be illogical to begin measurement in the roadway, possibly leave the roadway when the pedestrian route did not parallel the roadway, and then return to the roadway to conclude the measurement. I conclude, therefore, that the proper scope of measurement is the roadway which is determined to be the "most passable and safest," regardless of the location of sidewalks or other implements of pedestrian safety.

The first question you asked, therefore, is answered in the negative. This response assumes that the area education agency board of directors would be in agreement that the distance measured at 1.8 miles is the "most passable and safest."

In summary, if the "most passable and safest route, measured on the public highway only" from the "roadway opposite the private entrance to the residence of the pupil" to the "roadway opposite the entrance to the school grounds" regardless of the presence of sidewalks, is less than two miles, the local board of directors is not statutorily required to provide transportation for nonspecial education, elementary students.

Sincerely yours,



Robert D. Benton, Ed.D.

State Superintendent of Public Instruction

RDB:tag