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STATE OF IOWA • DEPARTMENT OF PUBLIC INSTRUCTION

GRIMES STATE OFFICE BUILDING • DES MOINES, IOWA 50319

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Declaratory Ruling #13
(Cite as 1 D.P.I. Dec. Rul. 26)

April 21, 1977

Roger A. Clough, Ed.D.
Superintendent of Schools
Mason City Community School District
Executive Offices Administrative Building
120 East State Street
Mason City, Iowa 50401

Dear Dr. Clough:

Your Petition for Declaratory Ruling on behalf of the Mason City School District was filed in this office on March 21, 1977. The first issue presented in your Petition centers around Section 285.1(1), The Code 1975. The relevant portion of that Section reads as follows:

Boards in their discretion may provide transportation for some or all resident pupils attending public school or pupils who attend nonpublic schools who are not entitled to transportation. Boards may collect from the parent or guardian of the pupil not more than the pro rata cost for such optional transportation, determined as provided in subsection 12.

The first question raised in your Petition regarding this Section is as follows:

In your opinion, may this provision of the law be interpreted to mean that boards may provide optional transportation at less than or on some basis other than the pro rata cost determined as provided in subsection 12?

Based upon information provided in your letter, I feel that if the District were to provide the transportation via district-owned school buses, the optional transportation may be provided at a cost up to but not greater than the pro rata cost determined as provided in subsection 12. However, you mentioned the district is considering making arrangements with a private contractor. If the private contractor utilizes common carrier type vehicles, Section 285.1(5), The Code 1975, may apply. The relevant portion of that section reads as follows:

Where transportation by school bus is impracticable or not available or other existing conditions warrant it, arrangements may be made for use of common carriers . . . at a cost based upon the actual cost of service and approved by the Board.

Also, if the optional transportation is provided via the common carrier type vehicles, the Department's proposed amendments to the Iowa Administrative Code, Rules 22.43 through 22.43(6) would be applicable. (see enclosed)

If the private contractor utilizes regular school buses, Rules 670-22.3 through 670-22.7 of the Iowa Administrative Code may apply. Consequently, I feel if the district provides the optional transportation via district-owned buses, the district may provide the optional transportation charging an amount up to but not exceeding the pro rata cost. If the district provides the optional transportation via a common carrier or private contractor, I feel the cost would be based upon the actual cost of the service as approved by the board.

The second issue presented in your Petition centers around Section 285.1(14), The Code 1975. The relevant portion of that section reads as follows:

Resident pupils attending a nonpublic school located either within or without the school district of the pupil's residence shall be entitled to transportation on the same basis as provided for resident public school pupils under this section. The public school pupil shall determine the days on which bus service is provided, which shall be based upon the days for which bus service is provided to public school pupils, and the public school district shall determine bus schedules and routes. In the case of nonpublic school pupils the term "school designated for attendance" means the nonpublic school which is designated for attendance by the parents of the nonpublic school pupil.

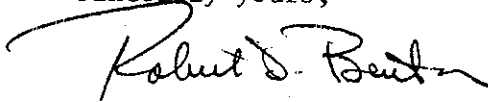
The second question raised in your Petition regarding this section is as follows:

In your opinion, does the provision of the law mean that when optional transportation, as we propose, is provided nonpublic school students, the public school district is precluded from requesting the nonpublic school to pay for their nonpublic school students the difference between the established fee for optional transportation and the actual cost of such transportation service? Furthermore, should the nonpublic school refuse to enter into such an arrangement, may the public school provide such optional transportation to public school students only?

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I feel that you are required to provide the optional transportation to all public and nonpublic students on the same basis within the limits the district has established and the receipt of that optional transportation is then discretionary with the parents. The nonpublic school would not be involved at all. I feel that your district could negotiate a contract with the private contractor for the service and subsequent to that contract, charge the parents of all students being transported, both public and non-public, the difference between what the district will subsidize and the actual cost of the service.

Sincerely yours,

A handwritten signature in cursive script that reads "Robert D. Benton". The signature is written in dark ink and is positioned above the typed name.

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

RDB:tag

Enclosure