

**OPINION**  
**42-99**

October 8, 1942 (OPINION)

SCHOOL DISTRICTS

RE: Transportation

You state that you may have a problem in your school district, particularly with reference to transportation of certain pupils to your school. It is rather difficult to answer a general question such as the one presented in your letter. The school board has considerable discretion in the matter of providing proper and convenient school facilities for the pupils in their district. Chapter 206 of the Session Laws of 1939 provides, among other things, that:

"The board may close a school when the average attendance for ten days is less than six, but if such school is closed, it is the duty of the school board to provide proper and convenient school facilities. In determining what shall constitute proper and convenient school facilities the board must consider the distance of such child from the nearest other school, and all surrounding circumstances, and may furnish transportation to such other school, or pay an extra allowance of transportation, or furnish the equivalent thereof in tuition or lodging at some other public school."

In case of dispute, the patrons may submit the matter to arbitrators.

As you will observe and as I have pointed out, the board may take such action as in its judgment and sound discretion it deems just and proper, bearing in mind, of course at all times, that proper and convenient school facilities must be provided for all children of compulsory school age within the district.

This office has no authority to dictate to school boards or to tell them to do anything in a particular way where the matter is left to the judgment and discretion of the board. All we can do is to call their attention to the provisions of the law and where the law permits the board to act according to their best judgment, such action cannot be interfered with, unless it appears upon its face to be unjust and inequitable and contrary to the spirit and intent of the law.

ALVIN C. STRUTZ  
Attorney General