

**OPINION  
57-170**

September 5, 1957            (OPINION)

SCHOOL DISTRICTS

RE: High School Closed - Who Chooses School for Attendance

Your letter dated September 4, 1957, has been received.

you state that about three years ago your district closed its high school, purchases a bus and has since transported its high school students to the Leeds High School at Leeds, North Dakota. Because of the new tuition law which makes it mandatory for a high school other than a county agricultural school to charge tuition equal to the county average your district can save some \$2,700.00 by transporting the high school children in your district to the county agricultural school in Maddock, North Dakota. The question then arises whether or not the students have to go to the Maddock school and if they choose to go to Leeds whether your district is liable for tuition charges over and above the amount paid from the county and state equalization funds which follow the child wherever he attends high school.

We can find no law which indicates that a school district can choose the high school which a resident high school student must attend. It is, therefore, our opinion that if certain students choose to attend the Leeds High School, your district must pay tuition charges over and above the amount realized from the county and state equalization funds. However, your district can choose the high school to which you will furnish transportation and high school students who do not wish to attend there must furnish their own transportation to the high school of their choice.

Since section 15-3409 as amended by Chapter 133 of the 1955 Session Laws refers only to furnishing transportation or board and lodging in lieu thereof for students attending high school in another district, we seriously doubt that your board has the right to furnish transportation to an agricultural and training school since it is questionable that it is a high school in another district as contemplated by the Legislature when it enacted the above statute.

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Attorney General