

**OPINION
57-178**

September 16, 1957 (OPINION)

SCHOOL DISTRICTS

RE: Transportation Payments

We have received your request for an opinion dated September 12, 1957, with reference to Chapter 136 of the 1957 Laws, which amends section 15-3404 of our code.

You point out that it is now permissible for a school district to furnish transportation payments under this statute to high school students attending high school within the district.

Your questions then are as follows:

1. If a school district pays family transportation for grade school children, must the district pay also for students attending high school?

We think not. Chapter 136 is purely permissive. We believe that to make a distinction between elementary and high school children is not unfair nor unlawful classification. As long as the district decides to pay for grade school children it is not obligated to pay for high school children, but may do so in its discretion. We believe the operation of this law will operate uniformly since the benefits of it fall equally upon all in the class or classes affected by it. In other words, grade school children fall into one class and high school students into another. Neither do we believe such classification violates section 20 of our state constitution.

2. Where a school district has two types of transportation, one vehicular, the other family type, and some high school students receive vehicular transportation, can the district refuse to pay family type or vehicular transportation to some high school students in the district?

We believe not. If the district is furnishing transportation to some high school students in the district it must furnish transportation to all. We believe to hold otherwise would create unfair discrimination against those who are refused transportation. We believe also that to do so would grant rights and privileges to some which are not granted to all similarly situated, and would thus be violative of section 20 of our state constitution.

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Attorney General