

Opinion No. 19**Schools and School Districts—School Trustees—Regulation of Use of
Automobiles By Pupils****Held: School authorities may adopt reasonable regulations relative
to the use of automobiles operated by pupils during any recess
or the intermission for lunch.**

June 19, 1957

Miss Harriet Miller
State Superintendent of Public Instruction
State Capitol Building
Helena, Montana

Dear Miss Miller:

You have requested my opinion concerning the authority of the board of trustees of a school district to regulate the use of cars by students during the school day and in particular during the noon recess. You advise me that the students at one of our schools drive

their cars during the lunch period for pleasure and not to return to their homes. You also state that the use of the cars at such time constitutes a hazard to the residents near the school.

School authorities have power to regulate the conduct of pupils from the time they leave home for school and until they return home. This is recognized in Montana in Sec. 75-2402, RCM, 1947, which provides in part as follows:

"Every teacher shall have power to hold every pupil to a strict accountability in school for any disorderly conduct on the way to or from school, or during intermission or recess . . ."

This rule also has been recognized by the courts and the Kentucky Supreme Court in the case of *Gott v. Berea College*, 165 Ky., 376, 161 S. W. 204, 51 L.R.A. (N.S.) 17, where it was stated:

"There is no question that the power of school authorities over pupils is not confined to schoolroom or grounds, but to extend to all acts of pupils which are detrimental to the good order and best interest of the school, whether committed in school hours, or while the pupil is on his way to or from school, or after he has returned home."

In 79 C.J.S. 444, the text states:

"A rule or regulation in regard to the discipline and management of a public school, whether adopted by the teacher or by the school board must be reasonable in itself, but as long as it is within reason it will not be disturbed. A presumption exists in favor of the reasonableness and propriety of a rule adopted by school authorities under statutory authority; and this presumption is not affected by the consideration of possible abuses of the rule where it may be construed as reasonably designed for a legitimate purpose. . ."

The board of trustees of a school district has, under Sec. 75-1632, RCM, 1947, as amended, the power to prescribe and enforce rules not inconsistent with law.

The principal of any county high school, under Sec. 75-4410, RCM, 1947, with the consent and approval of the board of trustees may make rules concerning the conduct and government of the pupils attending the county high school and a district superintendent of schools, under Sec. 75-4142, RCM, 1947, has general supervision of the schools of his district and is the executive officer of the board of trustees.

There can be no doubt that school authorities have the power to pass reasonable regulations concerning the use of automobiles by students during recesses or the intermission for lunch providing such rules are necessary for the orderly conduct of the pupils and the school affairs.

It is, therefore, my opinion that school authorities may adopt reasonable regulations relative to the use of automobiles operated by pupils during any recess or the intermission for lunch.

Very truly yours,
FORREST H. ANDERSON
Attorney General