

Opinion No. 294.**Schools and School Districts—
Trustees—Transportation.**

HELD: Bus transportation is supplied in lieu of school, and where no school is operated, the Board must furnish individual transportation for child from home to school of attendance.

June 28, 1938.

Miss Ruth Reardon
State Superintendent of
Public Instruction
Helena, Montana

Dear Miss Reardon:

You have submitted the question as to what provision should be made for school transportation of a pupil who lives 2.6 miles from an established route wherein a bus is being operated; the distance the child will travel by bus to the school being approximately 10 miles. Section 1010 provides:

“ * * * and provided that the trustees of any district shall not, except where there is rail transportation or where it is necessary to transport pupils for special instruction from school to school, be allowed to expend any of the district's money for transportation of pupils who live nearer than two and one-half miles from the limits of an incorporated city in which the child attends school or nearer than three (3) miles from the school the child attends, unless any child resides on an established consolidated route, provided, however, that this limitation as to mileage shall not apply to districts of the first or second class. * * * ”

If the school is not operated in a school district within three miles of the child's home, no authority is grant-

ed the School Board to furnish transportation unless the child lives on an established bus route. The bus transportation is in lieu of an established school operating within such distance from the pupil's home. Neither is the district in such instances required to furnish individual transportation or pay the costs thereof from the child's home to the point where the child takes the bus.

If individual transportation is had, and no established bus route exists, then the school board must furnish transportation the entire distance, in the proper form and manner as required by law, and the transportation must be from the child's home to the school. The theory being that bus transportation is supplied in lieu of a functioning school, and if there is no bus transportation, then it may be said that no school, theoretically, exists within three miles of the child's home. In order to place the child in as good a position as if a schoolhouse was operated within three miles of his home, it follows that individual transportation must be furnished the entire distance.