

No. 282

SCHOOLS AND SCHOOL DISTRICTS—TRANSPORTATION—PAYMENTS MADE ONLY FOR DAYS ATTENDED.

Held: The power of trustees to pay parents or guardians amounts in lieu of bus transportation extends only to the payment of such amounts for each day of attendance of pupils for whom such payments are made and not for each school day of the month or other payment period regardless of attendance of the pupils for whom payments are made.

October 23, 1941.

Mr. Albert G. Harvey
County Attorney
Liberty County
Chester, Montana

Dear Mr. Harvey:

A school board in your county, paying transportation according to the schedule set out in Section 7 of Chapter 152, Laws of 1941, has deducted from the amount of transportation paid each month the amount representing days a pupil was absent from school. The question is whether the board of trustees has a right to make such a deduction.

As you know, school trustees have only those powers expressly conferred upon them by statute and such as are necessarily implied in the exercise of those powers expressly conferred. (*McNair v. School District No. 1*, 87 Mont. 423, 425, 288 Pac. 188, 69 A. L. R. 866; *State ex rel. Bean v. Lyons*, 37 Mont. 354, 362, 96 Pac. 922.)

School trustees have authority, therefore, to pay amounts for transportation in lieu of bus transportation only in accordance with the authority conferred by statute. As pointed out by you, the statute, Section 7, Subsection (1), Chapter 152, Laws of 1941, provides for payment of a certain amount per day "for each day attended." The balance of the schedule contemplates the amount paid "per day" shall be for each day attended as recited in the first subsection.

It is my opinion the power of trustees to pay parents or guardians amounts in lieu of transportation extends only to the payment of such amounts for each day of attendance of pupils for whom such payments are made and not for each school day of the month or other payment period regardless of attendance of pupils for whom payments are made.

Sincerely yours,

JOHN W. BONNER
Attorney General