

Dear Mr. Parcels:

You have requested an opinion of this office on the following questions:

Is a local school board liable for board and room of children of a resident of the district who were taken without the consent of such local school board, or any notice to said board, to a school in the state of Washington.

The paying of board and room for school children in lieu of transportation is strictly statutory, and for the right of any district to pay out public funds, it must comply strictly with the statutory provisions. Therefore, upon looking into this matter we find two statutes pertaining to transportation, namely Chapter 152, Laws of 1941, as amended by Chapter 189, Laws of 1943, and Section 1 of Chapter 217, Laws of 1939. Said Chapter 152, Laws of 1941, as amended, refers only to transportation and the payment of board and room in lieu thereof, in districts within the state of Montana, while Section 1 of Chapter 217, Laws of 1939, is specific as to children who may be allowed transportation while attending out of state schools.

This office in Opinion No. 111, Volume 19, Report and Official Opinions of the Attorney General, held that the allowance of transportation or its equivalent was not mandatory on the trustees of a school district but was discretionary. Section 1 of said Chapter 217, Laws of 1939, is in accord with that opinion, in that it specifically provides such transportation shall be given "when the board of trustees of any school district shall deem it for the best interests of any pupil."

Said Section 1 of Chapter 217, specifically provides such transportation may be furnished for attending a school in a school district of another state, **which school district in the other state joins the school district wherein the child resides. It further provides for written consent of the superintendent of schools of the county of the child's residence.** We must take the law as the legislature enacted it.

Therefore, it is my opinion a school district may not legally pay board and room in lieu of transportation of students residing in the district who attend school outside the state unless the board of trustees of the district

Opinion No. 251.

School Districts—Transportation of Students—Room and Board in Lieu of Schools.

Held: A school district may not legally pay board and room in lieu of transportation of students residing in the district who attend school outside the state unless the board of trustees of the district have deemed it for the best interest of the pupil, the superintendent of schools of the county has given consent, and the school without the state attended by the pupil is within a school district that joins the Montana school district in which the pupil resides.

September 22, 1944.

Mr. M. L. Parcels
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have deemed it for the best interest of the pupil, the superintendent of the county has given her consent, and the school without the state attended by the pupil is within a school district which joins the Montana school district in which the pupil resides.

Sincerely yours,
R. V. BOTTOMLY
Attorney eGneral