Opinion No. 84

Schools and School Districts—Transportation, Proportionate Share of Costs of—Private or Parochial Schools.

Held: The payment for transportation to be made by the parents or guardian of a student attending a private or parochial school may be determined by dividing the total number of students using the bus, including those attending the private or parochial school, into the cost of operating the bus as fixed by the current transportation budget.

January 21, 1950.

Mr. Milton G. Anderson
County Attorney
Richland County
Sidney, Montana

Dear Mr. Anderson:

You requested my opinion concerning the meaning of "proportionate share of the cost of transportation" which the parents or guardian of a child attending a school other than a public school must pay in order to entitle such child to ride on a school bus, as provided in Section 8, Chapter 152, Laws of 1941.

This office has previously considered the question of the use of public school moneys for transportation of pupils attending a private or parochial school and in Opinion No. 228, Vol. 19, Report and Official Opinions of the Attorney General it was held that "public school moneys may not be expended for transportation for a student attending a private or parochial school." This opinion was recognized and approved by a later opinion of this office, Opinion No. 74, Vol. 21, Report and Official Opinions of the Attorney General, wherein it was also held:

> "School trustees have the discretionary power to permit pupils attending private or parochial schools to ride on public school busses provided there is ample room on the busses and the parents or guardian of such children pay their proportionate share of the cost of such transportation."

In determining the meaning of the phrase "proportionate share of the cost of transportation," the case of Hochsprung v. Stevenson, 82 Mont. 222, 266 Pac. 406, is helpful as it is stated therein, " 'Proportionate' means adjusted to something else according to a certain rate of comparative relation." Dividing the total number of pupils using a bus, including those attending a private school, into the cost of operating the bus will give the comparative relation, and also the amount of the contribution of the parents or guardians of the pupils using the bus and attending a private school.

In your letter you ask if contribution must be made for students attending a private school if there is no increase in the cost to the district

due to the fact such students receive transportation. Section 8 of Chapter 152, Montana Session Laws of 1941, is specific in requiring that permission from the Clerk of the District must be secured and "the parents or guardian of the child shall pay their proportionate share of the cost of such transportation." If the payments so made are not immediately available for use because of a lack of an appropriation in the transportation budget, then such funds may be used in the transportation budget for the next fiscal year.

It is, therefore, my opinion that the payment for transportation to be made by the parents or guardian of a student attending a private or parochial school may be determined by dividing the total number of students using the bus, including those attending the private or parochial school, into the cost of operating the bus as fixed by the current transportation budget.

Very truly yours,
ARNOLD H. OLSEN,
Attorney General.