

SCHOOLS:
SCHOOL BUSES:

A six-director school district in the State of Missouri may contract with a private or parochial transportation system to provide the transportation services which the board is authorized to furnish pursuant to Section 167.231, RSMo 1969.

OPINION NO. 156

May 3, 1971

Honorable George P. Dames
Representative, District 104
Room 411B, Capitol Building
Jefferson City, Missouri 65101



Dear Representative Dames:

This official opinion is issued in response to your request for a ruling on the following question:

"The Fort Zumwalt School District has had the practice of contracting transportation from private and parochial schools. Some of these agreements for hauling children by private and parochial schools for the public schools is by the mile and some per student.

"What I want to know is if it is legal and constitutional for public schools to have these agreements with private and parochial transportation systems."

We understand your inquiry to be whether it is legal in the State of Missouri for a six-director school district to contract with a private party to provide transportation for children to and from school. We are assuming that a reasonable price is paid by the six-director school district for this transportation.

In Attorney General's Opinion No. 104, dated March 26, 1970, to Honorable John E. Downs (copy enclosed), we concluded that a board of education could legally contract with private bus owners to provide the transportation authorized by Section 167.231, RSMo 1969.

Your opinion request raises the further question of whether a six-director school district can contract with a parochial transportation system to provide the transportation service required by

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the school district. Based on the reasoning in Attorney General's Opinion No. 56, dated February 4, 1970; Opinion No. 164, dated June 2, 1966; and Opinion No. 354, dated December 19, 1968 (copies of which are enclosed herewith), we do not believe that a contract between a six-director school district and a parochial transportation system for the transportation of public school children to and from their public schools would be prohibited under the Missouri Constitution. Two Missouri constitutional provisions--Article I, Section 7, and Article IX, Section 8--prohibit the use of public money to aid any religious school. (See Opinion No. 56 for the text of these provisions.) Consistent with the reasoning and conclusion of Opinion No. 56, there is no gift, subsidy or aid to religion where reasonable compensation is paid to a parochial transportation system for performing a service which the public school district cannot provide for itself at a lesser expense or which it cannot obtain elsewhere at a lesser expense.

CONCLUSION

Therefore, it is the opinion of this office that a six-director school district in the State of Missouri may contract with a private or parochial transportation system to provide the transportation services which the board is authorized to furnish pursuant to Section 167.231, RSMo 1969.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, D. Brook Bartlett.

Yours very truly,



JOHN C. DANFORTH
Attorney General

Enclosures: Op. No. 104
3-26-70, Downs

Op. No. 56
2-4-70, Burch

Op. No. 164
6-2-66, Wheeler

Op. No. 354
12-19-68, Morton