

Opinion No. 67-59

April 12, 1967

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: Mr. Leonard J. DeLayo Superintendent of Public Instruction Department of Education State Capitol Building Santa Fe, New Mexico

QUESTION

QUESTIONS

1. Are local Boards of Education required or authorized to carry insurance of any sort on school buses owned and operated under contract by private individuals, and, if so, what type of insurance?
2. Are local School Boards authorized or required to carry insurance on school buses owned by them, and if so, what types of insurance are required or authorized?
3. The Transportation Director approves reimbursement to parents for transportation to bus routes under Section 73-19-8 (E) (P.S.) (77-14-6 School Code). These parents use their own cars. Should the School District carry some sort of insurance on these vehicles?

CONCLUSIONS

1. See analysis.
2. See analysis.
3. See analysis.

OPINION

{*84} ANALYSIS

Attorney General Opinion No. 60-235, dated December 27, 1960 ruled that a school board may contract {*85} for liability insurance covering school buses under contract to the school system. The authority for this ruling was Section 5-6-19, N.M.S.A., 1953 Compilation. That ruling is still valid and we so hold. However, we do not find any authority which makes it mandatory for a board of education to carry liability or any other type of insurance on school buses under contract to the system.

The answer to your second question is the same as the one for your first question except that Section 73-8-13 requires a school board to insure all school property. This

would clearly include buses. Therefore it is mandatory for a school board to insure **their** buses against loss from theft or damages.

Section 73-19-8 (E) (P.S.), N.M.S.A., 1953 Compilation provides as follows:

"A local board of education may, with the approval of the state transportation director, provide for per capita or per mile reimbursement to a parent or a guardian in cases where regular school bus transportation is impractical because of distance, road conditions or sparsity of population. A schedule relating to the reimbursement of parents and guardians shall be established by the state transportation director with the consent and approval of the state board of public education."

In our opinion during the times when a parent or guardian is proceeding to and from school for the purpose of transporting a child and is being reimbursed under the authority of the quoted section, that parent or guardian is acting as an agent of the school board. Section 5-6-19, supra, includes agents among those upon which a school board may carry liability insurance. Therefore, we are of the opinion that a school board may, but is not required to, carry liability insurance on parents or guardians reimbursed under Section 73-19-8 (E), (P.S.), supra, limited to the time when such parent or guardian is acting as an agent for the school board.

By: Roy G. Hill

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