

1982 WL 189162 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

February 9, 1982

*1 The Honorable Robert J. Sheheen
Representative
Kershaw County
512A Blatt Building
Columbia, South Carolina 29211

Dear Representative Sheheen:

Thank you for your letter of February 2, 1982, which requested an opinion of this office as to whether any state laws or regulations prohibit a public school bus from travelling on a privately owned road to pick up school children. The Attorney General has referred your request to me for response.

No state law or regulation would appear to prohibit the Department of Education's approval of a route for a bus over a privately maintained road. [Section 59-67-410 of the Code of Laws of South Carolina \(1976\)](#) vests the control and management of school bus transportation in the State Board of Education. Section 59-67-490 requires that all routes served by state owned buses be subject to the approval of both the Board of Education and the local Board of Trustees. Under § 59-67-570, the State Board of Education has adopted regulations which do refer to the buses travelling over publicly maintained roads (Rule 43-80, Vol. 24 of the Code); however, under emergency regulations filed on December 11, 1981, the Department of Education (Department) may approve variations from transportation regulations when the variations are clearly in the interest of safety, efficiency and economy. In addition, no restrictions as to driving on public roads appear to be included in the Board's regulation for the transportation of handicapped children. See Rule 43-82, as amended.

The Department is familiar with the particular route which you mentioned in your letter. It is willing to consider routing the bus over the private road provided that the school, district approves such a route and requests the Department's approval. The Department desires that any such request be accompanied with satisfactory evidence of the land-owner's having no legal grounds for objection to the bus's travelling across his property.

If I may be of further assistance to you, please let me know.

Yours very truly,

J. Emory Smith, Jr.
Assistant Attorney General

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