

1973 S.C. Op. Atty. Gen. 326 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3643, 1973 WL 21094

Office of the Attorney General

State of South Carolina

Opinion No. 3643

October 12, 1973

***1 1. The responsibility for the transportation of handicapped children rests upon the various school districts, although provision is made for reimbursement of the costs of services provided by local school districts to the extent set forth in the Appropriations Act for the current year.**

2. If alteration or modification of the normal school buses is required for the transportation of handicapped children, the costs for such changes must be borne by the individual districts.

Senator

Charleston County

You have inquired with respect to the responsibility for the transportation of handicapped children under an Act approved in 1972 and now incorporated as Sections 21–295.10, *et seq.*, Code of Laws for South Carolina.

The Act referred to provided, in part, that ‘the board of trustees of each school district shall, upon approval of the district's plan by the State Department of Education, establish and operate a program which will insure an appropriate education for each handicapped child resident within the district and shall maintain adequate records of the training and services provided—.’

The education services referred to include, among other services, transportation.

To implement the provisions of this Act, the General Assembly, by the current Appropriations Act, has made an appropriation to the State Department of Education (Section 25, Item II, I(18), as follows:

Aid to Subdivisions:

Transportation of Handicapped \$100,000.00

The Department of Education has issued policies for the expenditure of these funds by providing for reimbursement to the various districts in accordance with the schedule which it has formulated.

The above statutory provisions, the phraseology of the appropriations referred to above, as well as the administrative construction given to the Act relating to the education of handicapped children, indicate clearly that the responsibility for the transportation of handicapped children rests upon the various school districts, although provision is made for reimbursement of the cost of services provided by local school districts to the extent set forth in the Appropriations Act for the current year.

I direct your attention to Section 21–839.4, Code of Laws for South Carolina, which authorizes county boards of education to permit the use of school bus equipment for transportation in connection with athletic events, Boys and Girls Clubs, special events in connection with the schools, and such other educational purposes as may appear proper to the respective boards. The State Department of Education has issued certain regulations concerning the exercise of the powers so granted to county boards of education, including the imposition of a 20 cents per mile cost, plus particular requirements as to the numbers of children to be transported, etc. If alteration or modification of the normal school buses used is required for the transportation of handicapped children, it is my opinion that the costs for such changes must be borne by the individual districts.

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Attorney General

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