



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable LeVern I. McCann
County Attorney
Hockley County
Levelland, Texas

Dear Sir:

Opinion No. 0-7247

Re: S. B. 167, 49th Leg., Reg. Sess.-Transportation aid for a pupil who is transferred from his home district when the grade which the pupil is to attend is also taught in the student's home district.

We are in receipt of your request for an opinion upon the above subject matter.

You very appropriately accompany your request by a brief of facts and argument, both of which being concise they are here copied as follows:

Statement of Facts

"A student in the Whitharral School District lived four or five miles from the Anton School. The Anton School Bus passed this student's home every day. The Whitharral School Bus to give transportation to this student would have had to go out of its way every day. The County School Board of this County in compliance with Article V, Chapter 24 of the State Equalization law as passed by the last legislature set up "the most economical system" of transportation possible and in doing transferred the student to the Anton Schools. The grade which this student attended in the Anton School was also taught in the student's home district.

Honorable Le Vern I. McCann - Page 2

"The action of the school board in setting up the transportation system was approved by the State Board of Education and confirmed by the Legislative Accountant. The County School Board then applied for transportation aid which the State Board of Education denied because of a statement in the law which says "in no instance may aid be granted to pupils transported who attend a grade in another school, which grade is taught in such pupils home district.

"Argument

"Regardless of the above statement, it is clear that the intent of the law is that the County School Board is to "set up the most economical system possible". It is evident that since this must be done annual- that is must be done before transportation aid is to be granted. In other words to set up "the most economical system possible" is a prerequisite before transportation aid is to be granted. It seems clear that the law intended this to apply for children who had to transfer from one district to another.

"In this respect the law states that it is for the purpose of transporting both pupil's from their districts and within their district. Further that money is to be paid for those who attend the most convenient school.

"A number of instances exist in which aid is to be denied. One such instance is "for a pupil being transported out of his home district * * * unless the bus route through such School District have been approved by the State Department of Education and confirmed by the Legislative Accountant." It follows from the above statement that if the bus routes have been approved by such agencies, aid is to be granted.

"To strictly construe the following "In no instance may aid be granted for pupils transported who attend a grade in another school, which grade is taught in such pupil's home district." would be defeating the entire purpose of the law which is to set up the most economical system of transportation possible. This apparent conflict evidently applies only to a student

who is transferred out of his home district in complete disregard to the transportation system set up by the County School Board and approved by the required agencies."

Your arguments favoring the granting of such aid as presented by you are persuasive but not conclusive.

Your question calls for a construction of Article V governing Transportation Aid under Senate Bill Number 167, Chapter 361 - the appropriation for school aid of the 49th Legislature (General Laws, 49th Leg. Reg. Sess. pp 639-640). The inquiry, therefore, is answered in the light of familiar rules of statutory construction.

This department has just released its Opinion No. 0-7241 (a copy of which we hand you herewith) in which we announced the general rule of construction involved in the immediate consideration, that opinion itself dealing with the identical Article of above mentioned appropriation act. We there said:

"The intention of the Legislature, as discovered from the Act, is the one unfailing rule for construing any statutory act. That intention is to be gathered from the four corners of the act as a whole, when read in the light of the purpose as contained in the title, and in the light of each and every part of the Act considered collectively and separately, construing the parts, where possible, in such way that each and every part may stand as valid, and that no part thereof may be stricken out or ignored."

While the inquiry there involved a construction of different articles of the act the present inquiry involves only the construction of a particular article, that is Article V, the principle above quoted from our Opinion 0-7241 is applicable in full force, however, in that we should give to every part of Article V a meaning if possible, so that no part thereof may be disregarded but that every part may be regarded to accomplish the over-all purpose of the Legislature in the enacting of the particular article.

Now the provision that the "County Superintendent and County School Boards of the several counties subject to the approval of the State Superintendent of Public Instruction, are hereby authorized to annually set up the most economical system

Honorable La Vern I. McCann - Page 4

of transportation possible for the purpose of transporting both grade and high school pupils from their district, and within their district," is the initial sentence of the Article. The equally emphatic language "in no instance may aid be granted for pupils transported to attend a grade in another school, which grade is taught in such pupil's home district", is likewise a part of the same article. The legislature meant that both provisions should be effective and that each perform its respective part in accomplishing the purpose of that particular article. This is easily done.

The requirement for a setup of the "most economical system of transportation possible for the purpose of transporting both grade and high school pupils from their districts, and within their districts", is the general enacting clause as to the transportation feature of aid and the mandatory provision that, "in no instance may aid be granted for pupils transported who attend a grade in another school, which grade is taught in pupil's own district," is the exception to, or qualification of the general language first quoted. The mandate to set up such "most economical system of transportation possible" must be considered in the light of the equally clear prohibition contained in the latter part of the same article. To make the setup mandatory under all circumstances would be to set at naught the proviso, qualification, or express limitation with respect to transporting pupils taking the same grade in the district to which they transferred as was taught in the home district. We are not at liberty to adopt such a construction of conflict and exclusion. We think the action of the State Board of Education in denying the application for such transportation aid was right.

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED JUN 22 1944
Charles F. Bohler
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