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STATE OF MICHIGAN

**FRANK J. KELLEY, ATTORNEY GENERAL**

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Opinion No. 6850

May 24, 1995

SCHOOLS:

Measuring distances for purposes of transporting school children

A school district may not measure the 1 1/2 mile distance in section 1321(3) of the School Code of 1976, which governs the transportation of school children, by commencing at the property line of the school site. The 1 1/2 mile distance must be measured from the point of intersection of the center line of the public street or road with the center of the nearest schoolhouse doorway.

Honorable Penny M. Crissman

State Representative

The Capitol

Lansins, Michigan

You have asked if a school district may measure the 1 1/2 mile distance in section 1321(3) of the School Code of 1976, MCL 380.1321(3); MSA 15.41321(3), which governs the transportation of school children, by commencing at the property line of the school site.

Section 1321(3) of the School Code of 1976 provides as follows:

(3) A school district is not required to transport or pay for transportation of a resident pupil living within 1-1/2 miles, by the nearest traveled route, to the public or state approved nonpublic school in which the pupil is enrolled.

Information attached to your letter suggests that a school district has interpreted the 1 1/2 mile distance as commencing at the property line of the school site, requiring children to walk across a large unimproved lot upon which the school is located.

OAG, 1981-1982, No 5933, p 257 (July 23, 1981), interpreted the 1 1/2 mile distance in the context of former section 71(1) of the State School Aid Act of 1979, 1979 PA 94. Former section 71(1) of the State School Aid Act of 1979 established the 1 1/2 mile distance as being from "the schools which the pupils attend." In construing the language of the statute, OAG No 5933, at 258, stated:

The 1 1/2 mile limitation for state school aid reimbursement purposes is obviously designed to encourage school districts to provide transportation for students who would have to walk over 1 1/2 miles to the schools they attend. Using the point of entry to the school site in measuring the distance for reimbursement purposes could result in students who live 1.4 miles from the entry to the school site having to walk an additional half mile to a mile across school owned land to reach their school buildings. Such construction would not further the statutory purpose.

Thus, the opinion concluded that the point of beginning should be the point of intersection of the center line of the public street or road with the center of the nearest schoolhouse doorway. That conclusion was consistent with the result in *People ex rel*

*Schuldt v Schimanski*, 130 Ill App 2d 780; 266 NE2d 409 (1971), and *Purkeypyle v School District No 101*, 127 Kan 751; 275 P 146 (1929).

Section 1321(3) of the School Code of 1976 establishes the 1 1/2 mile distance as being from the "school in which the pupil is enrolled." This phrase obviously has the same meaning as "the schools which the pupils attend" and has been so interpreted in prior opinions of this office. See OAG, 1979-1980, No 5455, p 75 (March 9, 1979) and OAG, 1979-1980, No 5754, p 913 (August 7, 1980). Thus, the rationale of OAG No 5933 is equally applicable to the language in section 1321(3) of the School Code of 1976. While some other jurisdictions with similar statutes have interpreted the distance as commencing at the property line of the school site, many of these authorities were in existence in 1981 and considered in OAG No 5933, *supra*, at 258. There has been no legislative amendment to section 1321(3) since 1981 that would change the construction of the section regarding computation of the 1 1/2 mile distance.

It is my opinion, therefore, that a school district may not measure the 1 1/2 mile distance in section 1321(3) of the School Code of 1976, which governs the transportation of school children, by commencing at the property line of the school site. The 1 1/2 mile distance must be measured from the point of intersection of the center line of the public street or road with the center of the nearest schoolhouse doorway.

Frank J. Kelley

Attorney General

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State of Michigan, Department of Attorney General

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