

Schools--hazardous walking funding

Number: INFORMAL

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Sergeant Ellen Halstedt
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Post Office Box 24681
West Palm Beach, Florida 33416-4681

RE: SHERIFFS--SCHOOLS--STUDENTS--applicability of hazardous walking funding to 6th graders in middle school. s. 234.021, Fla. Stat.

Dear Sergeant Halstedt:

Thank you for considering this office as a source for assistance regarding the interpretation of section 234.021, Florida Statutes, which authorizes state funding for the transportation of students subjected to hazardous walking conditions. Attorney General Butterworth has asked me to respond to your letter.

As you note, section 234.021, Florida Statutes, defines "student" as "any public elementary school student whose grade level does not exceed grade 6." In many school districts, the elementary school grade levels are through grade 5 with middle school starting at grade 6. Some elementary schools within the state, however, include grade 6.

In light of the above definition of "student," you ask whether a sixth grader who is in middle school rather than elementary school is eligible for hazardous walking funding. You state that you have contacted the Department of Education on this matter and have been advised:

It has been an accepted practice within [the Department of Education] and within the Bureau of Auditing Services, Department of Education, that the term elementary school student means a student in membership in elementary school. A student attending middle school and enrolled in sixth grade is not eligible for hazardous walking funding. There are, however, elementary schools in Florida which contain grade levels through and including grade 6. If a sixth grader is enrolled in an elementary school, he or she may be claimed for funding on a bus designed to serve elementary students.

The above statute does not preclude either a school board or the sheriff from providing crossing guards to students in middle school. It does, however, authorize state funding for hazardous walking conditions for elementary school students only. By defining "student" as a public elementary school student whose grade level does not exceed grade 6, the Legislature appears to have recognized that some elementary schools may include grade 6 while others do not. By utilizing such language, the Legislature has ensured that *elementary* school students, regardless of whether the school encompasses grade 6 or not, are eligible for state hazardous walking funding.

The interpretation by the Department of Education would appear to be consistent with the statute. Nothing in the statute refers to students in middle school even though such students may be in grade 6; rather the statute applies to students in elementary school even though the school encompasses grade 6. However, as noted above, the statute does not preclude local authorities from providing such protection although it would not, as the Department of Education noted, be eligible for state hazardous walking funding under section 234.021, Florida Statutes.

I have forwarded a copy of your letter to Mr. Michael Olenick, the General Counsel for the Department of Education, for his review. I trust, however, that the above informal advisory comments may be of assistance.

Sincerely,

Joslyn Wilson
Assistant Attorney General

JW/tgk

cc: Mr. Michael Olenick, General Counsel
Department of Education