Mr. Deane E. Walker,
State Superintendent of Public Instruction,
State House,
Indianapolis, Indiana.

Dear Mr. Walker:

Your letter of March 24, 1949, has been received and reads as follows:

"I would like to have your official opinion supplementing Official Opinion No. 66 of the Attorney General for 1948.

"Can rules 26 and 41 of the Commission on General Education be construed to permit the State Department of Education to distribute tuition support to the school educating children living on the Federal Reservations referred to in said opinion, if evidence is furnished of payment by the parents of the per capita cost per child, less the amount to be given the school for tuition support?"

Official Opinion No. 66 of the Attorney General of Indiana for 1948, concerns the education of children by Honey Creek township, Vigo county, Indiana, whose parents live on the federal penitentiary reservation and on the Vigo Ordnance Plant federal reservation, both situated in Vigo County, Indiana.

Rules 26 and 41 of the Commission on General Education of the State Department of Education are as follows:

"26. The average daily attendance of a non-resident pupil will not be credited to the corporation that conducts the school attended unless the pupil has a legal transfer. A legal transfer is one issued through the proper school officials or where full payment has been made by the parent or guardian."

"41. In interpreting the term 'legal transfer' the board will accept, as a legal transfer, any arrange-
ment whereby a parent of a school child attending school in a corporation other than that of his legal residence submits to the State Board of Education written evidence of payment of the legal transfer charged to the corporation in which the child is actually in attendance."


It has been held that the same rules of construction applicable to statutes apply to rules and regulations of administrative boards.

42 Am. Jur., Public Administrative Law, Section 101, p. 431;

In interpreting statutes it has been held that the court will look to the general purpose and scope of a statute to determine the legislative intent.

City of Indianapolis v. Evans (1940), 216 Ind. 555, 567;

It is also firmly established that rules adopted by an administrative board pursuant to statutory provision, to be valid, must be reasonable.

Blue v. Beach (1900), 155 Ind. 121, 130.

In the administration of the statute regarding payment of state tuition support to schools, upon payment by a parent of the full per capita cost of educating a child, it has been the practice and administrative policy of permitting children to be counted in average daily attendance in the school to which a child is transferred for school purposes. Under the above referred rules the action of parents paying full per capita costs for a child transferred to a school corporation would in itself constitute a transfer. This has resulted in school corporations receiving twice the amount of the tuition support
payment, in the first instance from the parent and in the second instance on distribution by the state.

I do not believe a reasonable construction of such rule can be made that would require the parent to pay full per capita costs including tuition support, but that a reasonable construction of said rule would be that the parent should pay the full per capita cost of educating the child in the school corporation educating such child, less the state tuition support. In such case the state tuition support would be payable to the school corporation actually educating such child on its furnishing the Superintendent of Public Instruction with evidence of the fact that the full per capita cost of educating such child had been paid, less the state tuition support.

TLW: mfl

OFFICIAL OPINION NO. 13

April 2, 1949.

Mr. Deane E. Walker,
State Superintendent of Public Instruction,
State House,
Indianapolis, Indiana.

Dear Sir:

Your letter of March 24, 1949, has been received in which you request a construction of House Enrolled Act Number 120, passed by the Indiana General Assembly in the 1949 session. You request an official opinion on the following questions:

"1. Does this law modify or repeal Section 1 of Chapter 232 of the Acts of 1947 or the tax limitation statute as set forth in Chapter 119 of the Acts of 1937 or any tax limitation law now in force?

"2. Does the State Board of Education have the authority under this act to determine what unit or units, if any, it may grant over and above the minimum foundation program?

"3. How should paragraph five of Section 6 be construed? Is the first part of paragraph 5 an amendment to the present laws concerning transfers? Under