

General Municipal Law § 208-a

A village school crossing guard may control traffic at an intersection within the village that does not abut school property, if exercise of such traffic control is to aid in protecting school children going to and from school.

June 17, 2013

Chris G. Trapp
Village Attorney
Village of Alden
13336 Broadway
Alden, New York 14004-1328

Informal Opinion
No. 2013-3

Dear Mr. Trapp:

You have asked about the authority of the Village's school crossing guard to control traffic at street intersections. You have explained that the crossing guard stops all traffic at two intersections, otherwise controlled in one instance by a stop sign and in the other by a traffic light, to allow buses to turn from one street to another. Sometimes the buses have children on them (on the way to or from school) and sometimes the buses are empty of children and are traveling to the bus garage.

General Municipal Law § 208-a authorizes the Village to appoint a school crossing guard "to aid in protecting school children going to and from school . . . and for such purpose he or she shall have power to control vehicular traffic" within the Village.

You are concerned that the school crossing guard exceeds her authority because the intersections at which she controls traffic are not next to the school, and one of them is several blocks away. But section 208-a contains no constraints on the distance from a school that a school guard's authority may be exercised. Indeed, at one time section 208-a did include such a limitation: when originally enacted, it provided that a school crossing guard could control traffic "within an area of two city blocks, or two hundred yards from any entrance or exit" of a school. Act of April 3, 1956, ch. 255, 1956 N.Y. Laws 948. But this language was deleted in 1957 in recognition of the fact that "[i]n many instances, the points where vehicular control is really necessary for the protection of children going to and coming from school are located in areas that are more than two city blocks or two hundred yards from the entrance or exit of the school." Letter from M. Mitchell, Senate Sponsor, to A. Harriman, Governor (April 9, 1957), *reprinted in* Bill Jacket for ch. 784 (1957), at 10. The Village's school guard thus may control traffic at an intersection that does

not abut school property. The exercise of her authority of course is confined to the Village's boundaries. General Municipal Law § 208-a (crossing guard has power to control traffic "within such municipality").

Her authority also is constrained by the language of the statute by which it was granted: she has the power to control vehicular traffic "to aid in protecting school children going to and from school." She is permitted to exercise traffic control "reasonably designated" to achieve that purpose. *People v. Jennings*, 75 Misc. 2d 408, 409 (Vill. Millerton Just. Ct., 1973). Whether she reasonably gives a particular traffic order to serve that purpose depends on the facts at the time the order is made.

The Attorney General issues formal opinions only to officers and departments of state government. Thus, this is an informal opinion rendered to assist you in advising the municipality you represent.

Very truly yours,

KATHRYN SHEINGOLD
Assistant Solicitor General
in Charge of Opinions