



STATE OF KANSAS

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September 4, 1984

ATTORNEY GENERAL OPINION NO. 84- 90

Dr. Harold L. Blackburn
Commissioner of Education
Kansas Department of Education
120 East Tenth Street
Topeka, Kansas 66612

Re: Schools--Provisions Related to Common-School
Districts--School Residence; Attendance Eligibility

Synopsis: A child who lives in Missouri with one of his or her parents is not assured of the right to attend public schools in Kansas even though the child's other parent is a resident of Kansas. However, the child may be granted the right to attend public school in this state. Cited herein: K.S.A. 1983 Supp. 72-1046, as amended by L. 1984, ch. 261, §3; K.S.A. 72-1046a, as amended by L. 1984, ch. 261, §4.

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Dear Commissioner Blackburn:

You seek our opinion on whether a certain child is eligible to attend the public schools in Kansas, given the following facts. The child is of school age. The child's parents are divorced, with the father living in Missouri, and the mother residing in Kansas. The child lives with the father and visits the mother on an occasional basis.

K.S.A. 1983 Supp. 72-1046, as amended by Laws 1984, chapter 261, section 3, in relevant part provides:

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"Any child who has attained the age of eligibility for school attendance may attend school in the school district in which the child lives if . . . the child lives with a resident of the district and the resident is the parent . . . of the child" (Emphasis added.)

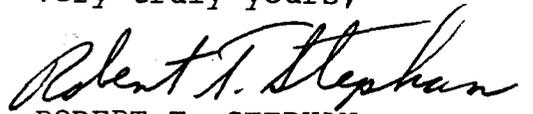
We believe the above-quoted provisions of this statute are clear and unambiguous in relation to the factual situation you present. Those provisions require that a child "live with" his or her parent in the state of Kansas to be assured of the right to attend the public schools of this state. In the situation you present, it is a matter of fact that the child does not live with his or her parent in the state of Kansas. Consequently, the child is not assured of eligibility to attend the public schools of this state.

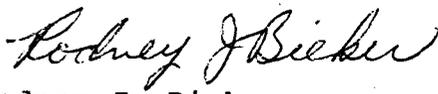
However, we note the provisions of K.S.A. 72-1046a, as amended by Laws 1984, chapter 261, section 4. This statute, in part relevant to your inquiry, provides:

"The board of education of any unified school district is hereby authorized to permit pupils who are not residents of the school district to enroll in and attend the schools of the district. . . . [T]he board of education may charge such pupils tuition, or may permit such pupils to attend school without tuition charge, as the board of education may determine."

Under this statute, the child could be permitted to attend public school in Kansas.

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas


Rodney J. Bieker
Assistant Attorney General

RTS:JSS:RJB:jm