



STATE OF KANSAS

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July 21, 1989

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ATTORNEY GENERAL OPINION NO. 89- 94

The Honorable Clyde D. Graeber
State Representative, 41st District
1900 Kingman
Leavenworth, Kansas 66048-4230

The Honorable Edward F. Reilly
State Senator, 3rd District
430 Delaware
P.O. Box 9
Leavenworth, Kansas 66048

The Honorable Martha Jenkins
State Representative, 42nd District
Route 1, Box 47
Leavenworth, Kansas 66048

Re: Schools-Community Colleges -- Out-district and
Student Tuition -- Student Tuition, Satellite
Facilities

Synopsis: A community college is authorized to charge out-district tuition for each student attending a satellite facility of that community college when the student resides in a district other than the community college district, provided there is no other community college located within the same district as the satellite facility. Out-district tuition charged to the county of residence of a student is a distinct fee from that charged to the student. Cited herein: K.S.A. 1988 Supp. 71-301, 71-609; K.S.A. 1988 Supp. 71-701(c).

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Representative Clyde D. Graeber
Senator Edward F. Reilly
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Dear Representative Graeber, Senator Reilly, and
Representative Jenkins:

You have requested our opinion regarding out-district tuition. Specifically you ask whether it is legal for Kansas City Community College (K.C.C.C.) to charge out-district tuition for Leavenworth county residents attending a satellite branch of K.C.C.C., which is located within Leavenworth county.

K.S.A. 1988 Supp. 71-301 states in relevant part:

"(b) The board of trustees, in accordance with rules and regulations of the state board, shall determine and collect an amount of out-district tuition to be charged for each student attending the community college whose residence is outside of the community college district. The board of county commissioners of any county charged with payment of out-district tuition shall levy a tax on all of the taxable property of the county sufficient to pay all out-district tuition charges authorized by this act.

"(c) The total out-district tuition charged by a community college shall be an amount equal to the number of duly enrolled out-district students times \$24 for each credit hour of each such student."

The growing popularity of community colleges has created a financial burden placed on local communities within community college districts. In order to provide additional financial assistance to the community colleges, the legislature authorized each community college, under certain circumstances, to charge out-district tuition for each student attending the college whose residence is outside the community college district. Out-district tuition is paid by the board of county commissioners of the county of residence of the students who live outside of the community college district. State ex rel. Stephan v. Board of Lyon County Commissioners, 234 Kan. 732 (1984). The legislature's intent was to provide broader financial support for the community college system by the implementation of the out-district tuition. One writer noted that this tuition was

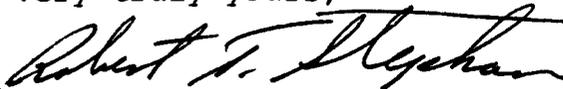
Representative Clyde D. Graeber
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"a tax on benefits the out-district county receives from having its high school graduates obtain additional education without going to the expense of furnishing educational facilities." Kansas Statutes: The Community Junior College Act - An Examination, 11 W.L.J. 499, 502 (1972).

The Board of trustees for K.C.C.C., pursuant to K.S.A. 1988 Supp. 77-609, has been granted authority by the state department of education to provide educational services in Leavenworth county. K.C.C.C. had previously provided Leavenworth county this service by holding classes in various buildings located within Leavenworth county. Now those classes will be provided in a permanent facility. This does not automatically bring Leavenworth County into the K.C.C.C. district. A community college district is the taxing district of the community college. K.S.A. 71-701(c). Absent a change of facts, Leavenworth County is not the taxing district of K.C.C.C. Thus, K.C.C.C. may charge out-district tuition for students residing in Leavenworth and attending the Leavenworth facility.

Secondly, you ask whether it is legal for K.C.C.C. to bill Leavenworth County \$24.00 per semester hour when the college advertises a rate of \$20.00 per semester hour. The \$24.00 per semester hour charged to the county is established by K.S.A. 1988 Supp. 71-301(c). It is distinct from the \$20.00 per semester hour which is the students' responsibility. This charge is authorized by, and within the limits of K.S.A. 1988 Supp. 71-301(a)(1).

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Mark W. Stafford
Assistant Attorney General

RTS:JLM:MWS:bas