



STATE OF KANSAS

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September 20, 1976

ATTORNEY GENERAL OPINION NO. 76-294

Mr. Merle R. Bolton
Commissioner of Education
Kansas State Department of Education
120 East 10th
Topeka, Kansas 66612

RE: Schools--Attendance of Students at Schools Outside of State

Synopsis: Computation of state aid under the School District Equalization Act is determined for the student attending an out-of-state vocational school in the same manner as if the student had attended an in-state facility.

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Dear Commissioner Bolton:

You have requested an opinion as to whether Unified School District No. 255, Kiowa, Kansas, may pay tuition and transportation costs for students enrolled part-time at an area vocational technical school in Alva, Oklahoma; and further, whether such district may, for state reimbursement purposes under the School District Equalization Act, count Kansas students attending the Oklahoma school the same as they do Kansas students attending a Kansas vocational school under K.S.A. 1975 Supp. 72-7033, as amended by Section 1 of Chapter 317 of the 1976 Session Laws. By way of factual background, the necessity for attendance at the Alva facility arises from the fact that the nearest Kansas area-vocational technical schools are at Dodge City and Wichita, both approximately 125 miles from Kiowa.

The manner in which a sending school is authorized to provide tuition and transportation is governed by either K.S.A. 72-6757 or K.S.A.

72-7201 et seq. K.S.A. 72-6757 provides in pertinent part:

". . . A board may contract with a school district located in another state for the payment of tuition for students from this state attending schools in another state, or for students from another state attending schools in this state. The board of the sending school shall provide for the transportation of such students in a manner provided by law."

K.S.A. 72-7202 requires an application be made to the State Board of Education setting forth the reason that out-of-state attendance is required. It should be noted that markedly reduced travel time is a permissible statutory justification. K.S.A. 72-7204 establishes the limitations on tuition to be paid by the sending district. K.S.A. 72-7206 deals with the question of state aid reimbursement by providing:

"Students authorized to attend school out of state by this act and K.S.A. 72-6757, after July 1, 1968, shall be counted as attending school in the district of their residence when computing the state shared guarantee and for the calculation for the county school foundation fund distribution and in determining the amount of state aid."

Thus, the provisions of K.S.A. 72-7201 et seq. clearly delegate authority to the board of education of a school district located in this state to pay tuition and provide transportation for students attending school in a district located out-of-state. The authority for a Kansas school district to utilize K.S.A. 72-7201 et seq. is contingent upon a determination by the Kansas State Board of Education that Oklahoma has enacted legislation with similar provisions. Specifically, K.S.A. 72-7206 provides:

". . . The state board shall approve no application for attendance of a student in a receiving district of any state, unless such state has in force an act which the state board deems to be similar to the provisions of this act."

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My research has concluded that Oklahoma has no current enactment which meets this similarity requirement. However, this same statute goes on to provide:

"...The provisions of this act shall be deemed alternative to the provisions of K.S.A. 72-6757 and no procedure or authorization under this act shall be limited by the provisions of K.S.A. 72-6757."

Thus, while the procedural requirements of K.S.A. 72-7201, et seq. are inapplicable here, since the Oklahoma legislature has, to date, failed to enact similar legislation, K.S.A. 72-6757 provides a complete alternative to K.S.A. 72-7201, et seq.

The major thrust to your question concerns not so much whether the student may attend an out-of-state area vocational technical school, since K.S.A. 72-6757 clearly authorizes such attendance, but what affect such attendance has upon the sending districts eligibility for state aid under the School District Equalization Act, K.S.A. 1975 Supp. 72-7030, et seq. and other related acts. Under this legislation, the term pupil, as defined by K.S.A. 1975 Supp. 72-7033; as amended by Chapter 317 of the 1976 Session Laws, means:

"...any person who is regularly enrolled in any of the grades kindergarten through twelve (12) of a district. Any pupil who is not regularly enrolled full time shall be counted as that proportion of one pupil (to the nearest one-tenth) that his or her regular enrollment bears to full-time regular enrollment. A pupil enrolled in kindergarten shall be counted as one-half (1/2) pupil. Any pupil enrolled in and attending any area vocational school, area vocational technical school or approved vocational education program shall be counted as one pupil if such pupil's vocational education enrollment and attendance is for one (1) hour in each school day and such pupil is regularly enrolled in and attending any of grades nine (9) to twelve (12) at least two-thirds (2/3) time or if such pupil's vocational education enrollment and attendance is for two (2) or three (3) hours in each school day and such pupil is regularly enrolled in

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and attending any of grades nine (9) to twelve (12) at least one-half time, otherwise any such pupil shall be counted as that proportion of one pupil (to the nearest one-tenth) that his or her non vocational education enrollment bears to full-time enrollment."

K.S.A. 1975 Supp. 72-7207 states unequivocally that

"Students authorized to attend school out of state by this act and K.S.A. 72-6757, after July 1, 1968, shall be counted as attending school in the district of their residence when computing the state shared guarantee and for the calculation for the county school foundation fund distribution and in determining the amount of state aid."

Thus, regardless of which statute is employed to justify out-of-state attendance, computation of state aid under the School District Equalization Act is determined for the student attending an out-of-state vocational school in the same manner as if the student had attended an in-state facility. The amount of state aid reimbursement for tuition and transportation is computed in the same manner as if the student had attended an in-state facility.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

CTS/HTW/gm