



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

Curt T. Schneider
Attorney General

September 12, 1978

ATTORNEY GENERAL OPINION NO. 78- 288

Mr. John J. Conard
Executive Officer
Kansas Board of Regents
Suite 1416 - Merchants National
Bank Tower
Topeka, Kansas 66612

Re: Tuition Grant Program--Eligible Institutions--Location

Synopsis: An institution of higher education which is located in Kansas is "located in Kansas" within the meaning of K.S.A. 1977 Supp. 72-6107(e), notwithstanding it is an affiliate or subsidiary of another institution which is located outside the State of Kansas.

* * *

Dear Mr. Conard:

Under K.S.A. 1977 Supp. 72-6111, the State Board of Regents is charged with the administration of the tuition grant program authorized by K.S.A. 1977 Supp. 72-6107 *et seq.* Tuition grants may be awarded to qualified students enrolled in any qualified "accredited independent institution," which is defined by K.S.A. 1977 Supp. 72-6107(e) as

"an institution of higher learning located in Kansas which (1) is operated independently and not controlled or administered by any state agency or subdivision of the state, (2) maintains open enrollment, and (3) is accredited by the north central association

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of colleges and secondary schools accrediting agency based on their requirements as of April 1, 1972." [Emphasis supplied.]

You advise that your office has been presented with a request from the National College of Business, Shawnee Mission Extension, that its students be permitted to participate in the tuition grant program. The question is raised whether the college is an "institution of higher learning located in Kansas." Its present campus is located in Rapid City, South Dakota, where the institution is a registered domestic corporation of that state. Shawnee Mission Extension has furnished a registration certificate from the State of Kansas indicating its authority to do business in this state under the name of NCB Careers, Inc. You state that you have been advised that the Shawnee Mission Extension asserted its foreign corporation status in avoiding regulation by the Department of Education under K.S.A. 17-6105, since repealed by ch. 87, L. 1978.

In addition, you advise that the Extension has indicated that it is recognized by the U.S. Department of Health, Education and Welfare as a fully accredited school of secondary education, and so appears in its Educational Directory. In addition, the Extension also carries a separate identification code on the family financial statement for utilization by American College Testing, with which this state contracts for financial need analysis.

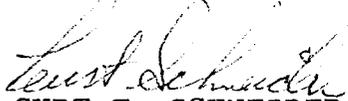
Thus the question is simply whether the phrase "located in Kansas" means physical presence in the state, or whether it imports a more restrictive definition, requiring that eligible colleges be indeed Kansas-based institutions.

The apparent legislative purpose was to make the tuition grant program available only to students enrolled in institutions of higher learning which are located in Kansas, and not to students enrolled in institutions located elsewhere. Students who are enrolled in an institution which is in fact located in Kansas are not ineligible for the program merely because that institution is an affiliate of an institution which is located in another state, or because it is a subsidiary of a parent institution located elsewhere. It is the location of the institution in which the student is enrolled which controls, in my judgment, and not the location of a parent or other affiliated institution. In my judgment, the phrase "located in Kansas" refers to physical location of the institution in which the students are enrolled who seek to participate in the program. If the legislature wishes

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participation in the program to students enrolled only in Kansas-based institutions, it must amend the statutory definition to impose more restrictive qualifications than the present language affords.

Yours truly,


CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj