

OPINION NO. 71-022

Syllabus:

The school district of the residence of a parent is responsible for the tuition of the children of such parent, where such children are inmates of a county children's home, attending school in the district in which such school is located, and where such children actually and lawfully resided with such parent just prior to their admission to such home.

To: Robert D. Webb, Ashtabula County Pros. Atty., Jefferson, Ohio
By: William J. Brown, Attorney General, May 24, 1971

Your request for my opinion reads as follows:

"This office requests your written opinion as to what district or agency is responsible for paying the tuition for James Murzynski, Janice Murzynski, Anthony Murzynski, Charles Murzynski and Debra McKinley.

"These children had been living with their mother in Erie, Pennsylvania. The parents were separated, but no legal proceedings had been filed. Since the mother required hospital care, she brought the children to the father, who resided in Conneaut City, Ashtabula County, Ohio.

"This was done immediately prior to the commencement of the fall term of school.

"As the father did not have living quarters of sufficient size to accommodate said children, a request was made to the Ashtabula County Children Services Board.

"On September 30, 1969, the following journal entry was entered in the Juvenile Court of Ashtabula County, Ohio.

"'For good cause shown temporary emergency custody of all children granted to Children Services until further order of the Court and proper notice to natural mother. Father to meet statutory requirements of support to Children Services.'

"The children were placed in the Ashtabula County

Children's Home, which home is located in the Buckeye School District. They attended schools in said Buckeye School District until January, 1970, at which time they were re-united with their father in Conneaut, Ohio.

"Buckeye School District, after billing the Erie, Pennsylvania School Board, without success, has submitted a tuition bill to the Ashtabula County Children Services Board for the period of schooling from September, 1969 to January, 1970.

"Said Children Services Board has requested a ruling as to their liability under Revised Code Sections 3313.64 and 3313.65."

Section 3313.64, Revised Code, after providing that the public schools shall be free to the "school residents" of each district, defines that term in the following language:

"* * *School residents shall be all youth who are children or wards of actual residents of the school district.* * *"

That Section further protects the rights of children, who have been placed in a children's home, to an education in the public schools. It provides:

"* * *Inmates* * *of county, semipublic, and district children's homes shall be admitted after the manner described in section 3313.65 of the Revised Code."

Section 3313.65, Revised Code, provides:

"* * *So far as possible such children shall attend such school in the district in which the home is located.* * *"

Further, with respect to an inmate of a children's home, Section 3313.64, supra, provides:

"* * *A child who is an inmate of a county, semipublic, or district children's home and who at the time of placement in such home was a school resident of the district in which such home is located shall be entitled to an education at the expense of such school district; any other inmate of such home shall be educated at the expense of the school district in which he was a school resident at the time of placement.* * *"

"* * *Any inmate of a county, semipublic, or district children's home who at the time of placement was not a school resident of any school district in Ohio shall be educated at the expense of the individual, public authority, or agency making such placement.

"* * * * * * *"

It is clear from the above that the "school residence" of a child is the last school district in which he resided with a

parent or ward, and that, if he is placed in a county home and goes to a public school in the district in which the home is located, the district in which he last resided with a parent or ward must bear the expense.

Where a mother resided for about a year with her children in the Shawnee Local School District in Preble County, and then placed them in the Eaton Schools, it was held that the Shawnee School Board must bear the expense. In re Laricchuita, 16 Ohio App. 2d 164. The court said that no particular length of time was necessary to establish a school residence, and that:

"* * *It is apparent from these sections that for school attendance purposes a child becomes a resident in a school district as soon as he acquires any kind of home in that district, whether or not that particular home is permanent or temporary in nature. To hold otherwise would, in effect, negate the obvious intent of the general assembly in the enactment of compulsory education and attendance laws."

See also, In re Sheard, 82 Ohio L. Abs. 259, the language of which was adopted by the court in Laricchuita, supra. And see Adams v. Funk, 19 Ohio App. 2d 177.

Nor does it matter with which one of the parents the child resides, so long as there has been no court order formally committing custody to one parent only. The residence of the parent with whom the child resides will determine the child's "school residence." Where a mother resided with six of her children in Sugar Creek Township, Greene County, while the father split his time between that residence and another in the City of Oakwood, a seventh child who lived in the Oakwood residence was held to be a "school resident" of Oakwood. Board of Education v. Dille, 109 Ohio App. 344.

Under the facts of this case I conclude that the children were "school residents" of the Conneaut City School District at the time they were placed in the Ashtabula County Children's Home, since they were the children of an actual resident of Conneaut. The Buckeye School District, which they attended during their stay in the county home, should, therefore, be reimbursed by the Conneaut City School District. (The Ashtabula County Children Services Board, which placed the children in the county home, would only be liable for their tuition to the Buckeye School District if they had not been "school residents" of any school district in Ohio at the time of placement.)

My conclusion is consistent with the interpretation by my predecessors of Section 3313.64, supra, in Opinion No. 2817, Opinions of the Attorney General for 1922; Opinion No. 545, Opinions of the Attorney General for 1963; Opinion No. 66-077, Opinions of the Attorney General for 1966.

In specific reply to your question, it is my opinion that the school district of the residence of the parent is responsible for the tuition of the children of such parent, where such children are inmates of a county children's home, attending school in the district in which such school is located, and where such children actually and lawfully resided with such parent just prior to their admission to such home.