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STATE CAPITOL  
PHOENIX, ARIZONA

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December 8, 1970

ATTORNEY GENERAL

DEPARTMENT OF LAW OPINION NO. 71-2 (R-23)

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REQUESTED BY: ALLEN COOK, Director  
Department of Corrections

QUESTION: Are students placed in foster homes under the Interstate Compact on Juveniles, which places out of state juveniles in homes in Arizona, residents for the purposes of school tuition?

ANSWER: No.

The question of residency and tuition seems to be a continuing problem in this state. In the case of out of state students, the statutes leave very little room for argument. A.R.S. § 15-302.C states:

"Children of nonresidents of the state may be admitted upon payment of a reasonable tuition fixed by the board."

The Legislature then passed A.R.S. § 15-547.01 which dealt with this subject and then repealed it, covering it instead in A.R.S. § 15-449. Subsection B of A.R.S. § 15-449 states:

"The residence of the person having legal custody of the pupil shall be considered the residence of the pupil, except as provided by the terms of subsection C of § 15-304."

Subsection D of A.R.S. § 15-449 states:

"Tuition shall be charged for all pupils attending school in a district other than that of their residence, as provided in subsections A and B, and shall be determined and paid in the following manner: \* \* \*"

Opinion No. 71-2  
(R-23)  
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Page Two

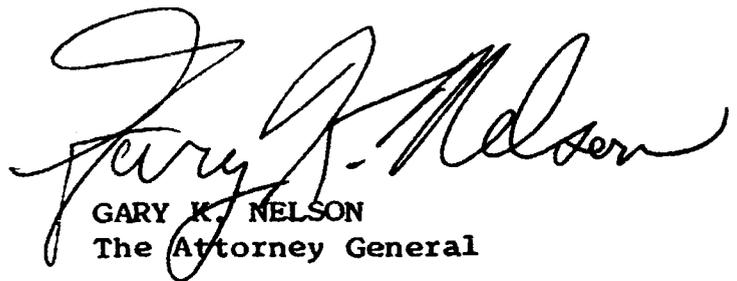
Attorney General opinions going as far back as 1957 and partially covered by 57-118, 60-1, 60-56, 61-6-L, 61-22-L and 63-45-L, along with 67-26-C, show the complexity of the problem as the statutes were amended and re-amended.

Yet, in this one particular, the basic proposition dealing with the children of out of state residents has remained the same. The Board must charge tuition for these students.

The Interstate Compact does not provide relief from this requirement, and it is not part of the Compact for an Arizona Court of competent jurisdiction to grant legal custody to the foster parents.

We, therefore, must conclude that the school district must charge tuition for these students.

Respectfully submitted,



GARY K. NELSON  
The Attorney General

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