



DEPARTMENT OF LAW
OFFICE OF THE
Attorney General
STATE CAPITOL
Phoenix, Arizona 85007

BRUCE E. BABBITT
ATTORNEY GENERAL

March 9, 1978

LAW LIBRARY
ARIZONA ATTORNEY GENERAL

Mr. Richard N. Groves, Deputy
Santa Cruz County Attorney
Office of the Santa Cruz County Attorney
513 Morley Avenue
Nogales, Arizona 85621

Re: 78-41 (R77-297)

Dear Mr. Groves:

We concur with the advice you gave to Mr. John P. Sinclair, Superintendent of the Santa Cruz Valley Unified School District 35, on September 9, 1977 that a child's legal residency within the school district cannot be established without process of law when the parents do not reside within the District. The Arizona Court of Appeals recently reached this conclusion in Chapp v. High School District No. 1 of Pima County, 2 CA-CIV 2693 (January 20, 1978), as did this office in its most recent opinion on the subject, 77-235 (R77-309).¹

Sincerely,

JOHN A. LASOTA, JR.
Acting Attorney General

DAVID RICH
Assistant Attorney General

DR:kd

1. Based upon the Chapp decision, our contrary conclusion in Att'y. Gen. Op. No. 76-174 (R75-520) is disapproved.

C1

RECEIVED

SEP 9 10 57 AM '77

OFFICE OF
ATTORNEY GENERAL
PHOENIX, ARIZONA

*Opinion Request
R77-297*

September 9, 1977

Mr. John P. Sinclair, Superintendent
Santa Cruz Valley Unified School District 35
Box 187
Tumacacori, Arizona 85640

Re: Nikki Ann Meador
Jonathan K. Murton

Dear Mr. Sinclair:

Question: Can legal guardianship of children be transferred by parents from them to other individuals, thus establishing the children's legal residency, without process of law?

Answer: No.

Arizona Revised Statutes § 14-5201 provides:

"A person becomes a guardian of a minor by acceptance of a testamentary appointment or upon appointment by the Court."

It is clear from a reading of this section that no guardianship may legally be established without appointment of a guardian by the Superior Court of the State of Arizona, or by testamentary appointment. No evidence has been presented that a petition for the appointment of guardian has been filed in the Superior Court of the State of Arizona for either of the children or that there has been a testamentary appointment.

A.R.S. § 15-302 controls which student may attend a school district tuition-free. This section states the residence of the person having legal custody of the pupil shall be considered the residency of the pupil.

Rich

Mr. John P. Sinclair

September 2, 1977

Re: Nikki Ann Meador
Jonathan K. Murton

Page 2

As there exists no legal guardianship of the pupils in Arizona, the persons with whom the students are residing in your school district do not have legal custody of the children, and, thus, the children are not residents of your district and are not entitled to attend the school tuition-free.

A copy of this opinion is being sent to the Attorney General for concurrence or modification.

Very truly yours,

/s/ Richard N. Groves

RICHARD N. GROVES, Deputy
Santa Cruz County Attorney

RNG/yu

cc with enclosure: Attorney General