



STATE OF ARKANSAS
OFFICE OF THE ATTORNEY GENERAL
JUSTICE BUILDING, LITTLE ROCK 72201

STEVE CLARK
ATTORNEY GENERAL

OPINION NO. 85-176

(501) 371-2007

July 31, 1985

The Honorable Jack Gibson
State Senator
P. O. Box 37
Parkdale, AR 71661

Dear Senator Gibson:

This is in response to your opinion request wherein you posed the following facts and attendant questions.

According to Act 111 of 1983, students who attended a school in 1982-83 and/or 1983-84 belong to the district attended. Students from Eudora attended school in the Ross Van Ness district in 1982-83 with their parents paying tuition for them to attend Ross Van Ness.

In 1983-84 and 1984-85, Ross Van Ness and Eudora worked out an agreement whereby Eudora counted the students on their ADM and allowed them to attend Ross Van Ness with Eudora keeping 30% of the state monies and Ross Van Ness receiving 70% of the state monies.

Why weren't the students who attended Ross Van Ness in 1982-83 considered as Ross Van Ness students? Could those same students now be considered as belonging to the Ross Van Ness district?

If Ross Van Ness is annexed to the Lakeside School District would those students who have been attending school there since 1982-83 and earlier be considered as belonging to the Ross Van Ness district? If so, would not the Eudora students who attended Ross Van Ness in 1982-83 belong to the Lakeside School District?

Enclosed for your consideration are two opinions previously issued by this Office to Senator Russ (Opinion No. 82-209) and Representative Collier (Opinion No. 85-18). These two opinions highlight the distinction between "attending" a particular school and "receiving instruction" at a particular school. In the facts as you present them, assuming

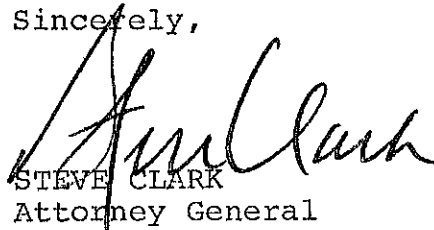
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Eudora was counting the students in the 1982-83 ADM, the students in question were continuously attending Eudora although they were receiving instruction in the Ross Van Ness distict. Therefore, based on the conclusions previously reached by this Office, the students may not avail themselves of the provisions of Act 111 of the First Extraordinary Session of 1983.

This same rationale would appear to require that your second question be answered in the negative also. Since the students in question continuously were counted in the Eudora Average Daily Membership, they remain Eudora students and are not affected in any way by the annexation of Ross Van Ness to the Lakeside School District.

This opinion, which I hereby approve, was prepared by Assistant Attorney General C. Randy McNair, III.

Sincerely,



STEVE CLARK
Attorney General

JSC:CRM:jk