



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable M. F. Kieke
County Attorney
Lee County
Giddings, Texas

Dear Sir:

Opinion No. 0-2033

Re: Residence of scholastics
for purpose of scholastic
census enumeration.

We are in receipt of your letter of March 1, 1940, in which you request the opinion of this department as to whether certain children should be enumerated in school district No. 1. or school district No. 2. in taking the school census.

You state that A owns two furnished houses, one of which is located in school district No. 1 and the other in school district No. 2. He resided in school district No. 1 until about the week before the first day of April at which time he moved to his house in school district No. 2 where his children had been staying for six months with their aunt while attending school. You further state that on the 1st day of April, A and his wife resided in their residence in school district No. 2 and intended to send their children to the school in said district No. 2.

Article 2816, Revised Civil Statutes, 1925, provides for the appointment of a census trustee on the 1st day of each January or as soon thereafter as practicable. It is further provided:

"The census trustee between the 1st day of March and the 1st day of April after his appointment shall take a census of all the children that will be over seven and under eighteen years of age on the 1st day of the following September and who are residents

Honorable M. F. Kieck, Page 2

of the school district on the 1st day of April."

The trustee is required to visit the residence and by actual observation and interrogation determine the residence and other facts required to be set out in the census. The person rendering the children is required to subscribe and swear to the information furnished.

As pointed out in your letter the question of residence is largely dependent upon the intention of the person in question and resolves itself into a question of fact. The general rule is well established that the residence or domicile of an infant is ordinarily that of the parent. If the father is living the domicile of the family and the child follows that of the father. 9 RCL 547; Gulf, G & S F Ry. Co. vs. Lemons, 109 Tex. 244, 206 SW 75, 4 ALR 943; Deterly vs. Wells (T.C.A. 1932) 53 SW (2d) 847.

While this department is not authorized to pass upon questions of fact, if the facts set out in your letter are accepted as true and A moved from his house in district No. 1 to his house in district No. 2 prior to April 1st, with the intention of relinquishing his residence in district No. 1 and establishing his residence in district No. 2, we are of the opinion that such facts would be sufficient to establish his residence in district No. 2 as of April 1st for the purpose of scholastic enumeration of his children who were also in district No. 2. The residence of the minor children being that of the father, and assuming that under all the facts and circumstances the father has changed the residence of the family to district No. 2, his minor children should be enumerated in such district.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Cecil C. Casnaak*
Cecil C. Casnaak
Assistant

CCC:RS

APPROVED MAR 9, 1940

E. B. Mann

ATTORNEY GENERAL OF TEXAS

2

