

STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

February 24, 1975

Opinion No. 75- 81

The Honorable Bert Chaney
State Senator
3rd Floor - State Capitol Building
Topeka, Kansas 66612

Dear Senator Chaney:

In Opinion No. 71-191, Attorney General Vern Miller considered the question whether a school board member has the privilege of entering his explanation of vote in the official minutes of the board. He concluded that the member does have that privilege, the minutes of the meeting being designed to constitute a record of the business transacted, votes taken, resolutions adopted and other business of the board. He stated thus:

"A member may wish, for one or another reason, to state the explanation for his vote. We know of no legal reason why he may not do so, and may not have that explanation as stated recorded in the minutes of the board."

You now inquire whether "members of the board of a school district have the right to limit an explanation (for example to one or two lines)."

The question you pose is not one for which, so far as our research discloses, there is any categorical answer based upon either statutory or decisional law. The privilege of explaining one's vote and of having that explanation entered in the minutes of a meeting is justified by the necessity that the minutes constitute

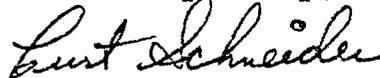
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a complete and accurate record of the proceedings of the board. An explanation of vote may be necessary to provide that record.

However, the entry of a lengthy explanation of vote in some readily conceivable instances may be such that it is reasonably deemed unnecessary to adequately record the proceedings of the meeting. A body such as a board of education may adopt reasonable rules of proceeding to govern its meetings. A board might reasonably find that one member's explanations are so consistently lengthy, argumentative and repetitive as to constitute little more than a reargument of the question being settled by the vote sought to be recorded, and decide, in the interest of the expeditious conduct of its proceedings and the making of an accurate record, that explanations of votes should be limited to a reasonable time, and given reasonable attention in the minutes of the meeting.

There is in our opinion no categorical and generalized answer to your question. In some instances, the board may be fully justified in imposing limits on the length of vote explanations, and the breadth and detail with which they are reported in the minutes of the meeting. In other instances, such limitations may not be justified. Resolution of such disputes can only be based on the rule of reasonableness, and not upon any single, imperative rule applicable to all instances.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj