



STATE OF KANSAS

*Office of the Attorney General*

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CURT T. SCHNEIDER  
Attorney General

April 17, 1975

Opinion No. 75- 164

Mr. Walter A. Sawhill  
Sawhill and Underhill  
152 North Main  
Haysville, Kansas 67060

Dear Mr. Sawhill:

At the request of the president of the board of education of U.S.D. 261, you enclose a copy of the petition filed in Leiker v. Board of Education of U.S.D. 261, No. C 32787, filed in the Sedgwick County District Court. You advise that the plaintiff, Mr. Leiker, has been elected a member of that board, and you inquire whether, in view of this pending suit, he is entitled to be seated as a member of the board.

In the action, the plaintiff seeks damages from the board, its members individually and as members of the board, and Mr. Phillips and yourself, individually and as employees of the board.

Under K.S.A. 25-2020, the only statutory qualification for election to a board of education is that the candidate be a qualified elector, and have the residence necessary for election to the position he seeks. The plaintiff is not disqualified from election to the board by virtue of the pending suit, and we see no legal basis upon which the board may refuse to recognize his election and to seat him at the commencement of his term. Once Mr. Leiker is seated on the board, of course, further and other questions may arise as a result of his pending suit against the district on the governing body of which he serves. However, we cannot anticipate the questions which may arise at this time. If we can be of further assistance to you concerning this or other matters in the future, please feel free to call upon us.

Yours very truly,

CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj