



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

January 27, 1976

ATTORNEY GENERAL OPINION NO. 76- 29

The Honorable Eugene Anderson
State Representative
3rd Floor - State Capitol Building
Topeka, Kansas 66612

Re: Schools--Smoking

Synopsis: A policy adopted by a board of education of a unified school district which permits smoking of cigarettes on the premises of a junior high school by minor students is within the legal authority of the board, and does not aid and abet any person in the violation of Kansas law.

* * *

Dear Representative Anderson:

You advise that the Wichita Board of Education has adopted a policy under which smoking of cigarettes and other tobacco products by students is permitted on the premises of Munger Junior High School, provided there is a written consent in the student's file from the parent or parents of the student. You inquire whether, in adopting this policy, the board is aiding and abetting violations of K.S.A. 79-3321(1) and (m).

K.S.A. 79-3321 provides in pertinent part thus:

"It shall be unlawful for any person:

* * *

(1) To sell cigarettes to any person under eighteen (18) years of age.

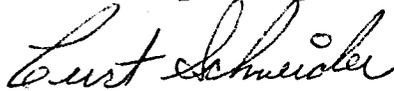
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(m) For any person under eighteen (18) years of age to purchase cigarettes."

Clearly, the board is not selling cigarettes to minors, nor assisting them in the purchase of cigarettes. While Kansas law prohibits sale to minors, it does not prohibit the possession and consumption of cigarettes by minors. In short, the policy of the board to permit smoking by students on the premises of the junior high school does not aid and abet any person in the violation of Kansas law. I find no legal or constitutional basis for objection to the policy as you have described it. Obviously, there may be differences over the wisdom of the policy. However, such a policy is within the legal authority the board, as the representatives of the people entrusted with the administration of the schools, and it does not aid and abet any person in the violation of any Kansas law.

From the standpoint of public health, there are obviously sound reasons to discourage smoking, both among adults and minors. I want to emphasize that nothing in this opinion should be construed as expressing any view as to the soundness or wisdom of the policy. This opinion is limited solely to the question of its legality, and certainly does not extend to its desirability.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj