



STATE OF KANSAS

## Office of the Attorney General

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**Curt T. Schneider**  
*Attorney General*

February 24, 1976

ATTORNEY GENERAL OPINION NO. 76- 71

Merle R. Bolton  
Commissioner of Education  
Kansas State Department of Education  
Kansas State Education Building  
120 East 10th Street  
Topeka, Kansas 66612

Re: Schools--Boards of Education; Organization,  
Powers, Finances--Interlocal Agreements for  
Educational Services

Synopsis: In the formulation of contract terms between unified school districts for the provision of educational services, the requirements of K.S.A. 1975 Supp. 72-8230 are to be deemed mandatory upon the cooperating districts.

\* \* \*

Dear Commissioner Bolton:

K.S.A. 1975 Supp. 72-8230 provides in pertinent part:

"In the event the boards of education of any two or more school districts enter into agreements pursuant to resolutions adopted by each such board of education under the provisions of K.S.A. 12-2904, for the purpose of providing educational services, the following conditions shall apply:"

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Subsection (b) of this statute limits the overall applicability to the following educational services:

" . . . special education, vocational education, career education, media services, curriculum development, and in-service training for staff programs."

K.S.A. 12-2904 further states:

"Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state relating to public improvements, public utilities, police protection, libraries, data processing services, educational services, building and related inspection services, flood control and storm water drainage, weather modification, sewage disposal, refuse disposal, park and recreational programs and facilities, ambulance service, or fire protection, may be exercised and enjoyed jointly with any public agency of any other state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of the state government when acting jointly with any public or private agency may exercise and enjoy all of the powers, privileges and authority conferred by this act upon a public agency."

Subsection (d) of this latter statute recognizes that agreements under the provisions of K.S.A. 12-2904 are not required to establish a separate legal entity by providing in part:

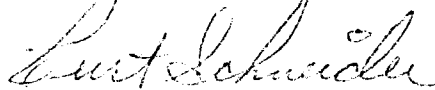
"In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to items 1, 3, 4, 5 and 6 enumerated in subdivision (c) hereof, contain the following:"

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A question has arisen as to whether two or more unified school districts may enter into an agreement to provide vocational education services without establishing the separate entity mandated by K.S.A. 1975 Supp. 72-8230(a).

The above quoted preface to K.S.A. 1975 Supp. 72-8230 specifically states that all agreements entered into pursuant to K.S.A. 12-2904 for the provisions of educational services shall conform to the conditions therein stated. One of these conditions is contained in subsection (a) which mandates the creation of a separate legal entity when two or more district cooperate to provide educational services, including vocational education. In the formation of contract terms between unified school districts for the provision of educational services, the requirements of K.S.A. 1975 Supp. 72-8230 are, therefore, to be deemed mandatory upon the cooperating districts providing vocational education.

Sincerely yours,



CURT T. SCHNEIDER  
Attorney General

CTS:HTW:bv