



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

September 17, 1976

ATTORNEY GENERAL OPINION NO. 76- 289

Mr. Matthew J. Dowd
County Counselor
Shawnee County Courthouse
Topeka, Kansas 66603

Re: Courts--Personnel--Administration

Synopsis: Personnel of the offices of the clerk of the district court, court services and of the court administrator shall not be subject to personnel rules and policies of the county, for they are not county officers and employees. Such personnel shall be subject to such personnel rules and policies as are prescribed by the state supreme court and the district court.

* * *

Dear Mr. Dowd:

You inquire concerning jurisdiction over employees of the Clerk of the District Court, and the offices of Court Services and of the Court Administrator. In particular, you inquire concerning the applicability of county personnel policies and regulations, including those related to sick leave and vacation time.

As you point out, in Opinion No. 76-234, we concluded that the clerk, deputies and other employees thereof could not be required to furnish surety bonds under K.S.A. 19-4201 *et seq.* K.S.A. 19-4202 provides that the board of county commissioners may designate which "appointive officers and employees of said county shall be required to give surety to the state of Kansas and said county. . . ." [Emphasis supplied.] This section does not apply, we pointed out, to district court clerks, their deputies and assistants, for they are not officers and clerks of the county. We

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noted that they are "officers and employees of the district courts, which are not entitites or instrumentalities of the county."

Ch. 146, § 31, L. 1976, provides for the appointment of clerks and allied personnel:

"[F]rom and after January 10, 1977, the administrative judge of each judicial district shall appoint a chief clerk of the district court of such judicial district. In judicial districts consisting of more than one county, the administrative judge shall also appoint a clerk of the district court in each of the counties within such district. The administrative judge also shall appoint such deputies, assistants and other clerical personnel as may be necessary to perform the duties of the office of clerk of the district court in each county within the judicial district. The chief clerk and other clerks of the district court and such deputies, assistants and other clerical personnel shall have such qualifications as are prescribed for such offices by statute, rule of the district court and rule of the supreme court."

Court administrators are appointed by the district courts, and act under their supervision and direction. Their compensation shall be that fixed by rule of the Supreme Court, payable from the state, or that fixed by the district court, payable by the county. Qualifications for the position shall be those fixed by rule of the Supreme Court. Ch. 146, § 32, L. 1976.

Bailiffs, court reporters, secretaries, parole and probation officers and other clerical and nonjudicial personnel shall likewise be appointed by the district courts. Their qualifications are those prescribed by law or rule of the Supreme Court. Their compensation is fixed by the court, but payable by the county. (Section 31 is curiously silent as to the fixing of compensation of the clerk, and deputies, assistants and clerical personnel of that office.)

Thus, although the county must fund the budget for payment of salaries of most of the personnel of the district court, the county does not appoint or employ them, prescribe their qualifications, or exercise any of the rights and prerogatives of an employer.

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Moreover, supervision of all nonjudicial personnel of the courts is vested in the district courts and in the Supreme Court. Paramount authority lies with the Supreme Court, pursuant to K.S.A. 20-101, as amended by ch. 146, § 1, L. 1976:

"As provided by section 1 of article 3 of the Kansas Constitution, the supreme court shall have general administrative authority over all courts in this state The chief justice shall have the responsibility for executing and implementing the administrative rules and policies of the supreme court, *including supervision of the personnel and financial affairs of the court system*, and delegate such of this responsibility and authority . . . as may be necessary" [Emphasis supplied.]

In addition, the district courts may promulgate such rules "as may be necessary for the administrative operations of such court," and "*to facilitate the regulation and supervision of the nonjudicial personnel thereof.*" Ch. 146, § 30, L. 1976.

Clearly, the district courts are part of a *state* system. Article 3, § 1 of the Kansas Constitution provides in pertinent part thus:

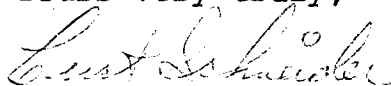
"The judicial power of this state shall be vested exclusively in one court of justice, which shall be divided into one supreme court, district courts, and such other courts as are provided by law The supreme court shall have general administrative authority over all courts in this state."

Thus, effective January 10, 1977, all personnel of the Shawnee County District Court are subject to the personnel rules and policies which are prescribed by the Supreme Court and the District Court. The employees described above are thus no longer subject to the personnel regulations of the county, including those prescribing sick leave, annual leave, and like incidents of employment. No exercise of the legislative or administrative home rule powers of the county under K.S.A. 19-101a may be applicable to such personnel, for this provision

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specifically states that "counties shall have no power under this section to affect the courts located therein."

Yours very truly,

A handwritten signature in cursive script, appearing to read "Curt T. Schneider".

CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj