ATTORNEY GENERAL OPINION NO. 76-309

Honorable Bert Chaney
State Senator
915 East 13th
Hutchinson, Kansas 67501

RE: Schools--Purchase of Health Insurance--Inclusion of Members of the Board of Education.

Synopsis: The boards of education of Kansas unified school districts are not authorized to include board members in group employee health insurance plans procured pursuant to K.S.A. 72-8414.

Dear Senator Chaney:

You have inquired whether it is legal for a school board member to participate in the employee group health insurance program.

K.S.A. 72-8414 provides:

"The board of education of any school district or the board of trustees of any community junior college may procure contracts insuring its certificated employees and other employees or any class or classes thereof under a policy or policies of group life, group health, disability income, accident, accidental death and dismemberment, and hospital, surgical, and/or medical expense insurance. The dependents of any such certificated employee or other employee may be insured under group policies which provide hospital, surgical and/or medical expense insurance. The certificated employees and other employees contributions to the premiums for such
insurance issued to the employer, or any
group of employers, as the policyholder,
may be deducted by the employer from the
employees' salaries when authorized in
writing by the respective employees so
to do."

The language of this statute clearly separates or distinguishes the board of education, and thus, its members, from both certificated and non-certificated employees. Further, the board is only authorized to procure health insurance for "employees", which by implication excludes non-employees. Board members must be included within this latter category for several reasons. First, the status of being an "employee" requires its counterpart, an "employer". Board members are given the broad responsibility of governing the management operation of the school district. In that capacity, they lack two major indices generally associated with being an "employee"; to wit: salary, and regular weekly work schedule. It would be contrary to the obvious intent of K.S.A. 72-8414 to permit inclusion of board members in employee health insurance plans. Thus, I must conclude that the boards of education of Kansas unified school districts are not authorized to include board members in group employee health insurance plans procured pursuant to K.S.A. 72-8414.

Very truly yours,

CURT T. SCHNEIDER
Attorney General

CTS/HTW/cgm