



STATE OF KANSAS

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Curt T. Schneider
Attorney General

October 5, 1976

ATTORNEY GENERAL OPINION NO. 76-312

Mr. Erle W. Francis
Attorney for State Board
of Education
Suite 719, Capitol Federal Building
700 Kansas Avenue
Topeka, Kansas 66603

RE: Schools--Vocational Education--Area Vocational
Schools--Power to Dispose of Realty and Buildings

Synopsis: Approval of the State Board of Education is not necessary to authorize the board of control of an area vocational-technical school to sell and convey land and buildings constructed thereon, as described below.

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Dear Mr. Francis:

You have inquired whether the board of control of an area vocational-technical school can purchase and sell building sites with the approval of the State Board of Education. This question is prompted by the following factual background:

It has been the practice for many years for the four area vocational-technical schools, as defined by K.S.A. 72-4412(c), in their building trades and carpentry classes to build buildings and houses as part of the curriculum and learning process. These "learning by doing" courses and programs, annually approved by the state board of education, have been practical and quite successful in teaching students. In order to experience the many and complicated problems faced by builders from the time the first dirt is moved until the completed project, all four state area vocational-technical schools have, from time to time, as needed, purchased

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building sites upon which basements and houses were constructed, and when finished, sold to the highest and best bidders, or by public auction, or by private sale.

The controversy arises by virtue of K.S.A. 72-4412(c) which provides:

"...Unless approved by the state board of education, no area vocational-technical school, so designated under authority of this act, shall construct or reconstruct or acquire any building or land until this provision is amended or repealed...."

Thus, while it is clear that the board of control may construct, reconstruct or acquire any building or land with the permission of the state board of education, it is unclear whether the board of control may dispose of or sell land, and if so, whether approval of the state board of education is required.

The above-quoted portion of K.S.A. 72-4412(c) must be construed in relationship to the sentence immediately preceding it which states:

"...Nothing in this act shall be construed to authorize the establishment or operation of any area vocational-technical school not specifically named in this subsection...."

The two restrictions must, in my judgment, be construed together. Establishment of area vocational-technical schools not named in the act is prohibited. The legislature further sought to regulate the expansion of the existing schools by requiring each of them to obtain approval of the State Board of Education prior to acquisition of land or construction or reconstruction of any building. Approval is not required for the sale or other disposition of land and buildings, but only for their acquisition, an omission which is wholly consistent with the apparent legislative purpose. Thus, in my judgment, approval of the State Board of Education is not necessary to authorize the board of control of an area vocational-technical school to sell and convey land and buildings constructed thereon, as described above.

Very truly yours,



CURT T. SCHNEIDER
Attorney General