



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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Attorney General

March 6, 1978

ATTORNEY GENERAL OPINION NO. 78- 106

Mr. John C. Smithson
Administrative Assistant
Kaw Valley Unified School District #321
St. Marys, Kansas 66536

Re: Schools--Teacher Negotiation--Fringe Benefits

Synopsis: The establishment of a fringe benefit pool for teachers is a proper subject for negotiation pursuant to 72-5413 et seq.

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Dear Mr. Smithson:

You inquire whether the establishment of a fringe benefit pool for teachers is lawful and a proper subject for negotiation under K.S.A. 72-5413 et seq. As you explained in your letter, a fringe benefit pool is a plan whereby a specific amount is paid into a central pool for teachers, and each teacher can apply this money to one or more specified benefits.

Pursuant to the provisions of K.S.A. 5413 et seq school boards are empowered and required to negotiate with teachers regarding "terms and conditions of professional service" through a recognized negotiating unit. "Terms and conditions of professional service" is defined at K.S.A. 72-5413(1) which provides as follows:

"'Terms and conditions of professional service' means salaries and wages, hours and amounts of work, vacation allowance, holiday, sick and other leave, number of holidays, retirement, insurance benefits, wearing apparel, pay for overtime, jury duty, grievance procedure, disciplinary procedure, resignations, termination of contracts, matters which have a greater direct impact on the well-being of the individual professional employee than on the operation

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Page Two

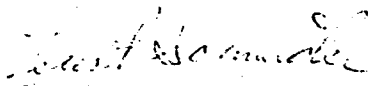
March 6, 1978

of the school system in the school district or of the community junior college and such other matters as the parties mutually agree upon as properly related to professional service. Nothing in this act, or the act of which this section is amendatory, shall authorize the adjustment or change of such matters which have been fixed by statute or by the constitution of this state."

Under this definition, school boards are required to negotiate on terms "which have a greater direct impact on the well-being of individual professional employees than on the operation of the school system." Clearly fringe benefits accruing to teachers other than those specifically mentioned in 74-5413(1) are such items. Therefore, the nature of fringe benefits and the manner in which such fringe benefits are provided are permissible subjects of negotiation under the Professional Negotiations Laws of the State of Kansas, and the negotiation and establishment of a "fringe benefit pool" is not unlawful.

You inquire further as to the tax consequences of the establishment of such fringe benefit pool. It is not the policy of this office to give opinions concerning the Internal Revenue Code. Therefore, we suggest that you consult your school board attorney and the Internal Revenue Service of the Department of the Treasury concerning this matter.

Very truly yours,


CURT T. SCHNEIDER
Attorney General

CTS:WEM:jm