



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

August 10, 1978

ATTORNEY GENERAL OPINION NO. 78-260

Mr. David G. Shriver
Attorney for Unified School
District No. 418
107 West Marlin
Post Office Box 677
McPherson, Kansas 67460

Re: Schools--Closing--Hot Weather

Synopsis: Although K.S.A. 1977 Supp. 72-1106 as amended specifically authorizes the closing of schools due to inclement weather which causes hazardous driving conditions, the board retains authority to close schools for other extraordinary conditions which it deems harmful to the health and welfare of students and school personnel. However, when the board determines to approve dismissal for such other reasons, such as hot weather, days on which classes are cancelled or dismissed for such reasons may not be counted toward the 180-day requirement, and waivers may not be granted under K.S.A. 1977 Supp. 72-1106 as amended for such days.

* * *

Dear Mr. Shriver:

As attorney for U.S.D. 418, you advise that a question has arisen in the contract negotiations for the current year. You enclose a photocopy of the present policy of the board for early dismissal of school due to hot weather, a policy which has been incorporated in the teacher contracts of U.S.D. 418 and in the board policy books since 1972. You advise that during contract negotiations this year, the legality of the provision was questioned in view

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of K.S.A. 1977 Supp. 72-1106. On behalf of the board, you request our opinion concerning the policy, in light of the referenced statute.

This provision was amended by the 1978 legislature. Subsection (a) continues to require that a school year consist of not less than one hundred eighty school days of six hours each. Subsection (b) continues to provide thus:

"In the event the board of any school district, or its designee, shall determine that inclement weather will cause hazardous conditions, said board, or its designee, may close any or all of the schools within the district. The amount of time pupils have been in attendance when such determination is made shall be considered a school day."

The 1978 legislature added provisions to this section which authorize a waiver by the State Board of Education of the requirements relating to the number of school days and the duration of the school year upon the following:

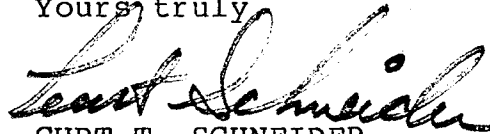
"(1) Certification by a board that, due to the persistence of inclement weather, hazardous driving conditions have existed in the school district for an inordinate number of days; and (2) a determination by the state board that said school district cannot reasonably adjust its schedule to comply with said statutory requirements."

K.S.A. 1977 Supp. 72-1106, as amended, expressly authorizes the board to close schools only for inclement weather which causes hazardous driving conditions. Obviously, there may be other extraordinary conditions which would warrant the closing of schools in the interest of the health and welfare of students, and in my judgment, this section does not foreclose the board from closing schools for such extraordinary reasons in the exercise of its general control and supervision of the schools of the district. This policy is presumptively based upon the board's finding that

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the prescribed temperatures cause unwarranted hardship to students and school personnel, and warrant dismissal of classes in the interests of the health and welfare of such students and personnel. This determination is within the authority of the board, in my judgment. However, if school is closed at 1:00 p.m. pursuant to the policy, such days may not be counted as school days toward the 180-day requirement, and no waiver may be given for such dismissals under this section.

Yours truly

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

CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj