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July 5, 1979

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ATTORNEY GENERAL OPINION NO. 79-133

Dr. Merle R. Bolton
Commissioner of Education
State Department of Education
120 East 10th Street
Topeka, Kansas 66612

Re: Schools--School Attendance--Effect of School
Closings Due to Hazardous Driving Conditions
on the Duration of the School Year

Synopsis: Pursuant to K.S.A. 1978 Supp. 72-1106(a), a school year must consist of not less than one hundred eighty (180) school days. However, pursuant to K.S.A. 1978 Supp. 72-1106(b), a board of education may schedule school days in excess of the statutory minimum to compensate for those school days for which it can be anticipated that schools will be closed due to hazardous driving conditions. If a board does not schedule such additional school days, or if the days on which schools are closed due to hazardous driving conditions exceed the number of days allotted by a board in excess of the one hundred eighty (180) school days minimum, the days on which schools are closed due to such conditions cannot be considered as school days. Under such circumstances, in order to fulfill the requirements of law fixing the duration of the school year, the local board must either adjust its schedule to make up these days or, pursuant to K.S.A. 1978 Supp. 72-1106(b), request the State Board of Education to waive the requirements of law relating to the duration of the school year.

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Dear Dr. Bolton:

You request our opinion as to the minimum number of school days teachers in public schools must spend in classroom instruction. Apparently, a teachers' association in at least one unified school district has construed the provisions of K.S.A. 1978 Supp. 72-1106(b) as sanctioning teachers spending less than one hundred eighty (180) days in the classroom. You, however, indicate that in the past, your office has interpreted this statute as requiring schools to be open a minimum number of days, although a board of education could schedule days in excess of this minimum if it so desired. We concur in the interpretation of the statute as given by your office.

Subsections (a) and (b) of K.S.A. 1978 Supp. 72-1106 provide, in relevant part, as follows:

"(a) A school year shall consist of not less than one hundred eighty (180) school days during which pupils regularly enrolled in a school district are under direct supervision of its teacher or teachers while they are engaged together in educational activities

"(b) In the event the board of any school district, or its designee, shall determine that inclement weather will cause hazardous driving 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. Subject to the provisions of K.S.A. 1978 Supp. 72-1106c, the days schools remain closed due to hazardous driving conditions shall be considered school days for an aggregate number of days not to exceed five days, equal to the number of days in excess of the school year scheduled by a board to compensate for those school days that schools of the district will be closed during the school year due to hazardous driving conditions. In addition to the foregoing provisions, the state board of education may waive the requirements of law relating to the duration of the school day and the school year upon application for such waiver by a school district." (Emphasis added.)

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In our judgment, the foregoing statutory provisions, when read together, express, in plain and unambiguous language, a clear legislative intent that teachers and students be in their classrooms, engaged in educational activities, a minimum of one hundred eighty (180) school days, unless this requirement is waived in a specific instance by the State Board of Education. It is axiomatic in the law of this state that the intent of the legislature is not to be ascertained by examination of only one sentence, or a part thereof, or one section of a statute, but must be determined by a comparison of the pertinent provisions of all the various parts of the act in light of the purpose to be accomplished. This rule has been followed consistently by the Kansas courts. See, e.g., Brown v. Keill, 224 Kan. 195, Syl. ¶4 (1978); Brinkmeyer v. City of Wichita, 223 Kan. 393, 396 (1978); State v. Dumler, 221 Kan. 386, Syl. ¶2 (1977); Jackson County State Bank v. Williams, 1 Kan. App. 2d 649, 650 (1977); State v. V.F.W. Post No. 3722, 215 Kan. 693, 695 (1974); State v. Sumner, 169 Kan. 193, Syl. ¶1 (1941); Terril v. Hoyt, 149 Kan. 51, 55 (1939); State v. Lebow, 128 Kan. 715 (1929); Railway Co. v. Cowley County, 103 Kan. 681, 684, 685 (1918).

Thus, to interpret the emphasized portion of the above-quoted statutory provisions to mean that teachers may spend less than one hundred eighty (180) days in the classroom, not only ignores the express legislative mandate in subsection (a) of this statute as to the minimum duration of the school year, but also ignores the remaining language of the sentence in which it is contained. The balance of that sentence makes it abundantly clear that the school days contemplated by the entire sentence are those scheduled by a board of education "in excess" of the regular one hundred eighty (180) school days. Such "excess" school days are scheduled in anticipation of hazardous weather conditions requiring the closing of school in the ensuing school year. Therefore, if a local school board fails to schedule any school days "in excess" of the school year to compensate for those days on which it can be anticipated that school will be closed due to hazardous driving conditions, the number of days that may be counted as school days, pursuant to said subsection (b), is zero.

Thus, it is our opinion that, pursuant to K.S.A. 1978 Supp. 72-1106(a), the school year must consist of a minimum of one hundred eighty (180) school days; although, pursuant to the provisions of subsection (b) thereof, a board of education may schedule a maximum of five (5) school days in excess of this statutory minimum to compensate for those school days on which

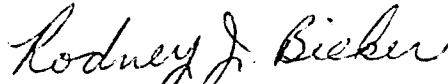
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it can be anticipated that schools will be closed due to hazardous driving conditions. However, if no such days are scheduled, days when school is closed due to hazardous driving conditions cannot be counted as part of the school year, and the board must either adjust its schedule or request the State Board of Education to waive the requirement that a school year consist of one hundred eighty (180) school days, pursuant to 72-1106(b). As a consequence, we are of the further opinion that 72-1106(a) requires that teachers spend one hundred eighty (180) school days in the classroom, during which pupils regularly enrolled in the school district are under the direct supervision of a teacher or teachers, while such students and teachers are engaged together in educational activities. Absent a waiver by the State Board of Education, school closure due to hazardous driving conditions cannot eliminate this requirement.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Rodney J. Bieker
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RTS:BJS:RJB:gk