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June 3, 1980

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ATTORNEY GENERAL OPINION NO. 80-115

Honorable Joseph C. Harder  
State Senator, Twenty-Fifth District  
P. O. Box 317  
Moundridge, Kansas 67107

Re: Schools--Teachers' Contracts--Provisions Regarding  
Leave

Synopsis: No statute compels a board of education to grant jury leave to a teacher, either with or without pay. The matter of leaves of absence, including jury leave, and all matters incident thereto, are "terms and conditions of professional service," as defined in K.S.A. 1979 Supp. 72-5413(1), and are governed by agreement between the school board and the teachers of the school district.

The acceptance by a teacher of a request by a fellow teacher to serve as a member of a hearing committee convened under the provisions of K.S.A. 1979 Supp. 72-5438 does not alter the employment contract between the hearing committee member and the school district by whom he or she is employed. Matters incident to such committee membership are a proper subject for negotiation under the collective Negotiations Act. Cited herein: K.S.A. 43-155 et seq., K.S.A. 1979 Supp. 72-5413 (as amended by section 19 of 1980 Senate Bill No. 590), K.S.A. 72-5438.

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Dear Senator Harder:

You seek our opinion regarding the following questions:

- (1) "Must a board of education grant jury leave to a teacher if the teacher is called for jury duty?"
- (2) "Is a teacher entitled to be paid his or her salary while serving on a jury?"
- (3) "If a teacher serves on a jury, must the teacher reimburse the school district for the fee received for jury duty?"
- (4) "Must a board of education grant a leave if a teacher is selected to serve on a due process hearing committee, per K.S.A. 72-5438?"
- (5) "If such a leave is granted, would the teacher serving on the due process committee continue to receive his or her salary while serving on such committee."

In response to your inquiries concerning jury leave, please be advised that the subject of jury duty is provided for in Chapter 43 of the Kansas Statutes Annotated. We have reviewed the statutes contained therein and find no provision which requires a school board, or any other employer, public or private, to grant a teacher or other employee a leave of absence for jury duty. In addition, we have found no statute requiring a board of education to pay the salary of a teacher who does not provide his or her professional services in accordance with the provisions of the teacher's contract with the board of education regarding the number of days of service. Furthermore, we are aware of no statute that requires a teacher to pay over to a school board any money received by the teacher for serving as a juror. Thus, given this absence of statutory provisions, we are of the opinion that no statutorily imposed duty exists for an employer, public or private, to grant an employee jury leave. We would respond similarly in response to your second and third inquiries.

However, it is to be noted that the matter of leave time, and specifically jury leave, is by statute (K.S.A. 1979 Supp. 72-5413, as amended, effective July 1 1980, by §19 of 1980 Senate Bill No. 590) a "term and condition of professional service," and is governed by the agreement reached between a board of education and the teachers employed in the school district. Thus, while a board of education is not required by statute to grant jury leave

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to the teachers of the school district, said board may be required to do so by the terms of the teachers' employment contracts.

The foregoing observations regarding jury leave are equally applicable to your inquiries regarding a teacher who has been requested to serve as a member of a hearing committee convened under the provisions of K.S.A. 1979 Supp. 72-5438. As is true in regard to the matter of jury leave, we have found no statute that requires a board of education to grant a leave of absence to a teacher to serve as a hearing committee member. However, the provisions of K.S.A. 1979 Supp. 72-5413, as amended, are, in our judgment, broad enough to allow, and in fact require, negotiations concerning all matters relating to leave time for teachers.

In summary, we have concluded that no statute compels a board of education to grant jury leave to the teachers of the district, either with or without pay, or to grant a leave to a teacher to serve as a hearing committee member. However, while no statute compels such action by a board, said board may be required to grant a leave of absence for either or both of the above purposes, if such is provided for in the teachers' contracts of employment. Of course, all matters incident to such leave, especially the question of whether such leave is to be granted with or without pay, are proper subjects to be provided for in the employment contract between the school board of a district and the teachers thereof.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General



Rodney J. Bieker  
Assistant Attorney General

RTS:BJS:RJB:jm