



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
ANTITRUST: 296-5299

May 14, 1981

ATTORNEY GENERAL OPINION NO. 81-116

Mr. Dwane F. Pomeroy  
Board of Education Member  
Unified School District No. 501  
1412 West Fifth Street  
Topeka, Kansas 66606

Re: Schools -- Teachers' Contracts -- Continuation  
of Teachers' Contracts

Synopsis: A board of education cannot condition the employment of a teacher upon said teacher submitting, at the time of his or her hiring by the board, a letter of resignation to be effective at the end of the school year. Such a policy is totally repugnant to the purpose and intent of K.S.A. 72-5411. Cited herein: K.S.A. 72-5410, 72-5411, 72-5436.

\*

\*

\*

Dear Mr. Pomeroy:

As a member of the Board of Education of Unified School District No. 501, you seek an opinion concerning the propriety of requiring teachers, at the time they are hired initially by a school board, to submit a resignation to be effective at the end of the first year of employment.

While the continuity of an employment contract between a board of education and a teacher having less than two years of employment with the school district is not subject to the "Teachers Due Process Act," K.S.A. 72-5436 et seq., such continuity is provided in K.S.A. 72-5410 et seq., the "Continuing Contract Law." See, e.g., NEA-Wichita v. U.S.D. No. 259, 225 Kan. 395 (1979).

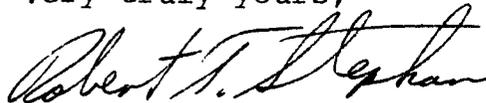
Dwane F. Pomeroy  
Page Two  
May 14, 1981

K.S.A. 72-5411 provides:

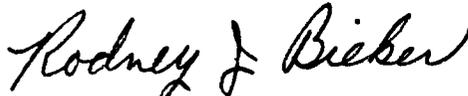
"All contracts of employment of teachers in the public schools in the state shall continue in full force and effect during good behavior and efficient and competent service rendered by the teacher, and all contracts of employment shall be deemed to continue for the next succeeding school year unless written notice of intention to terminate the contract is served by the board of education upon any teacher on or before the fifteenth day of April or the teacher gives written notice to the board of education of the school district that the teacher does not desire continuation of the contract on or before the fifteenth day of May or, if applicable, not later than fifteen days after final action is taken by the board of education upon termination of professional negotiation absent a binding agreement under article 54 of chapter 72 of Kansas Statutes Annotated, whichever is the later date. Terms of a contract may be changed at any time by mutual consent of both the teacher and the board of education of the school district."

The evident purpose and intent of this statute is to protect competent and worthy teachers against arbitrary dismissals from employment. Implementation by a board of education of a policy such as you describe would totally emasculate the statute and is clearly contrary to the purpose and intent thereof. Therefore, since it is well-settled law (requiring no discussion here) that a board of education may not effectuate policies which contravene pertinent statutory provisions, it is our opinion that a board of education cannot condition the employment of a teacher upon said teacher submitting, at the time of his or her hiring by the board, a letter of resignation to be effective at the end of the school year. Such a policy is clearly repugnant to the purpose and intent of K.S.A. 72-5411.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Rodney J. Bieker  
Assistant Attorney General

RTS:BJS:RJB:hle