



STATE OF KANSAS

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July 8, 1983

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ATTORNEY GENERAL OPINION NO. 83- 107

J. Byron Meeks  
P. O. Box 228  
Kinsley, Kansas 67547

Re: Elections -- School District Elections -- Office  
of School Board Member; Term of Office and Resig-  
nation from Office

Synopsis: A board member-elect may not resign his or her  
position on the board of education until the date  
upon which his or her term of office commences.  
An attempted resignation from such office prior  
to such date is abortive and ineffectual. Cited  
herein: K.S.A. 25-2033.

\* \* \*

Dear Mr. Meeks:

As counsel for the Board of Education of Unified School Dis-  
trict No. 347 (Board), you seek our opinion on a factually  
complicated matter concerning the resignation from office by  
a member of said Board.

You explain that the member of the Board who resigned was  
completing his term of office which expires June 30, 1983,  
pursuant to K.S.A. 25-2033. This board member tendered his  
resignation by letter, dated May 25, 1983, which was addressed  
to the President of the Board. The letter of resignation  
states that it is intended as the "immediate resignation"  
of the school board member. The resignation of this board  
member was considered and accepted by the Board at its meet-  
ing on Monday, June 13, 1983, and a vacancy was created on  
the Board on that date.

What complicates this matter is the fact this same person,  
on April 5, 1983, was elected to, and has qualified for, a  
position on the Board, with a term of office to commence

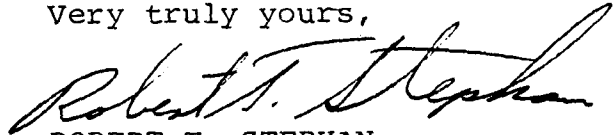
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July 1, 1983. This person now desires to serve on the Board and assume the responsibilities of office on July 1, 1983. The Board is uncertain whether this can be done, since this person resigned from the Board.

While we find no Kansas appellate court case addressing this situation, we believe our Court would follow the rule stated in 63 Am.Jur.2d, Public Officers and Employees, §165, that: "An attempt to resign an office before the officer has qualified and entered upon the discharge of its duties is considered abortive and ineffectual." (Emphasis added.) Therefore, in our judgment, if this Board member-elect sought his resignation to apply to his term of office which, by statute, will not commence until July 1, 1983, his effort is abortive and ineffectual, since he cannot enter upon the discharge of the duties of that office until July 1, 1983. If this Board member again changes his mind, such that he does not desire to serve in the office to which he was elected on April 5, 1983, he will have to submit another resignation concerning his term of office commencing July 1, 1983.

Thus, in general terms, it is our opinion that a board member-elect may not resign his or her position on the board of education until the date upon which his or her term of office commences. An attempted resignation from such office prior to such date is abortive and ineffectual.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Rodney J. Bieker  
Assistant Attorney General

RTS:BJS:RJB:hle