



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

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

ATTORNEY GENERAL OPINION NO. 85- 12

Dr. Harold L. Blackburn  
Commissioner of Education  
120 East Tenth Street  
Topeka, Kansas 66612

Re: State Institutions and Agencies; Historical  
Property--Kansas State School for the Deaf--  
Employees

State Institutions and Agencies; Historical  
Property--Kansas State School for the Visually  
Handicapped--Employees

Synopsis: Teaching personnel at the State School for the Deaf and the State School for the Visually Handicapped are state employees in the unclassified service of the state's civil service system. As such, they are not governed by the laws which grant tenure and continuing contract rights to teachers in the public elementary and secondary schools. Cited herein: K.S.A. 72-5410, 72-5413, K.S.A. 1984 Supp. 72-5436, K.S.A. 75-2935, 76-715, 76-1001a, 76-1002a, 76-1101a, 76-1116.

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Dear Commissioner Blackburn:

On behalf of the State Board of Education, you ask whether teaching personnel at the State School for the Deaf and the State School for the Visually Handicapped are governed by the

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laws which grant tenure and continuing contract rights to teachers in the public elementary and secondary schools. In our opinion, the statutes provide a negative response to your inquiry.

Under K.S.A. 76-1001a and 76-1101a, the state schools for the deaf and the visually handicapped are declared to be state institutions and are placed under the control and supervision of the State Board of Education. K.S.A. 75-2935(1)(r) provides that the teaching personnel of any institution under the control and supervision of the State Board of Education are included in the unclassified service of the state's civil service system. Pursuant to these statutes, it is clear that teaching personnel of the state schools for the deaf and the visually handicapped are employees of the state of Kansas and are governed by the state's civil service act. The same is not true for persons employed as teachers by the various unified school districts of the state, who are employees of those political subdivisions and are not governed by the state's civil service act. Rather, public school teachers are governed by the Continuing Contract Law (K.S.A. 72-5410 et seq.), the Professional Negotiations Act (K.S.A. 72-5413 et seq.), and the Teachers' Due Process Act (K.S.A. 72-5436 et seq.). By definition, none of those laws apply to teaching personnel at the state school for the deaf or the visually handicapped. See K.S.A. 72-5410, 72-5413 and K.S.A. 1984 Supp. 72-5436.

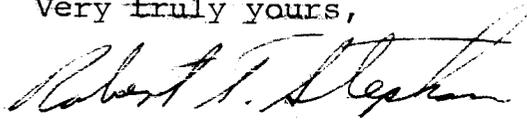
By way of contrast, the employment status of teaching personnel at the state schools for the deaf and the visually handicapped is closely aligned to that of the teaching personnel of those institutions under the control and supervision of the State Board of Regents. All of these employees are governed by the state's civil service act and are in the unclassified service. [See K.S.A. 75-2935(1)(f) and (1)(r).] Also, all of these employees serve at the pleasure of an appointing authority. [See K.S.A. 76-715, 76-1002a and 76-1116.] These facts clearly distinguish teaching personnel at the state institutions from similar personnel in the public elementary and secondary schools.

Thus, it is our opinion that teaching personnel of the State School for the Deaf and the State School for the Visually Handicapped are state employees in the unclassified service of the state's civil service system. Consequently, these state employees

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are not subject to the laws which grant tenure and continuing contract rights to teachers in the public elementary and secondary schools.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General of Kansas



Rodney J. Bieker  
Assistant Attorney General

RTS:JSS:RJB:jm