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August 15, 1985

ATTORNEY GENERAL OPINION NO. 85- 101

Colonel Bert Cantwell
Superintendent
Kansas Highway Patrol
122 SW 7th Street
Topeka, Kansas 66603

Re: State Departments; Public Officers, Employees --
Public Officers and Employees -- Public Employee
Organizations

Synopsis: Uniformed member of the Kansas Highway Patrol are
not precluded from joining the Kansas Association
of Public Employees by K.S.A. 75-4327(f)(2),
because the association is not a "recognized
employee organization" within the meaning of K.S.A.
75-4322(j). Cited herein: K.S.A. 75-4322, 75-4327.

* * *

Dear Colonel Cantwell:

You have requested our opinion as to whether a uniformed
member of the Kansas Highway Patrol may join the Kansas
Association of Public Employees (KAPE). Specifically, you
inquire whether K.S.A. 75-4327 bars the officers from joining
KAPE. That statute provides in relevant part:

"(f) A recognized employee organization shall not include:

. . .

"(2) uniform police employees and public property security guards with any other public employees, but such employees may form their own separate homogenous units."

You inform us that while the troopers are organized as the Kansas State Troopers Association, a recognized employee organization, other uniformed employees of the agency are not, and desire to join KAPE in order to support its lobbying activities with the legislature.

The definition of "recognized employee organization" is found in K.S.A. 75-4322(j). That section reads:

"Recognized employee organization means an employee organization which has been formally acknowledged by the public agency or certified as representing a majority of the employees of an appropriate unit."

An "employee organization" is "any organization which includes employees of a public agency and which has as one of its primary purposes representing such employees in dealings with that public agency over conditions of employment and grievances." K.S.A. 75-4322(i).

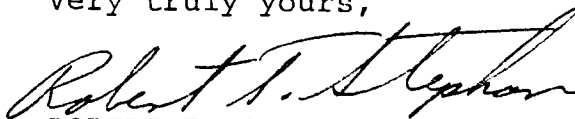
Since KAPE does not intend to seek recognition or certification as to the representation of these employees, it does not fall under the definition of "recognized employee organization." Further, since KAPE does not intend to represent these employees in dealing with the Highway Patrol, but rather intends only to lobby on their behalf, it may not even be an "employee organization" under K.S.A. 75-4322(i). In that K.S.A. 75-4327(f)(2) only precludes uniformed police employees from joining recognized employee organizations which also include other public employees, in our opinion they remain free to join other groups, including those which meet

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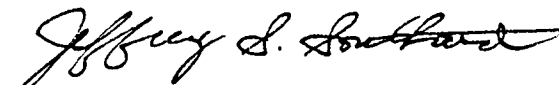
the definition of employee organizations under K.S.A.
75-4322(i).

In conclusion, it is our opinion that K.S.A. 75-4327(f)(2)
does not prohibit uniformed highway patrolmen from membership
in KAPE when only general representation and not formation
of an appropriate unit is intended.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Jeffrey S. Southard
Deputy Attorney General

RTS:JSS:crw