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August 12, 1987

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ATTORNEY GENERAL OPINION NO. 87- 117

Ted D. Ayres
General Counsel
Kansas Board of Regents
Suite 609, Capitol Tower
400 S.W. Eighth
Topeka, Kansas 66603-3911

Re: Agriculture--County Extension Councils, Boards and
Agents--Application of L. 1987, ch. 215

Synopsis: Without Internal Revenue Code, section 501(c)
exemption status, county extension councils do not
qualify as "nonprofit organizations" pursuant to L.
1987, ch. 215. However, if county extension
councils did have section 501(c) exemption status,
and if they carried general liability insurance,
then their volunteers would be eligible to receive
the negligence liability immunity afforded by L.
1937, ch. 215. Cited herein: L. 1987, ch.
215; K.S.A. 1986 Supp. 2-611.

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Dear Mr. Ayres:

As General Counsel for the Kansas Board of Regents you request
our opinion as to whether volunteer workers of county
extension councils are immunized from negligence liability
pursuant to 1987 Senate Bill No. 28, hereinafter referred to
as L. 1987, ch. 215.

L. 1987, ch. 215 specifically limits civil liability for volunteers of certain nonprofit organizations. Section 1(b) provides in part:

"If a nonprofit organization carries general liability insurance coverage, a volunteer of such organization shall not be liable for damages in a civil action for acts or omissions as such volunteer unless. . . ." (Emphasis added.)

In order for L. 1987, ch. 215 to apply to volunteers of a county extension council, the county extension council must first be classified as a "nonprofit organization." L. 1987, ch. 215, §1(a)(1). For purposes of L. 1987, ch. 215, a nonprofit organization is defined in section 1(a)(1) as follows:

"'Nonprofit organization' means those nonprofit organizations exempt from federal income tax pursuant to section 501(c) of the Internal Revenue Code of 1986, as in effect on the effective date of this act. . . ." (Emphasis added.)

In order to qualify for federal income tax exemption pursuant to Section 501(c) of the Internal Revenue Code of 1986, an application for that exemption has to be submitted to the Internal Revenue Service. It is our understanding that currently no county extension council has obtained section 501(c) exemption status from the Internal Revenue Service. Without this exemption status, county extension councils do not satisfy the requirements of a "nonprofit organization" as listed in section 1(a)(1) of L. 1987, ch. 215.

L. 1987, ch. 215 also sets out a definition of what a "volunteer" is. To be immune from negligent liability pursuant to L. 1987, ch. 215, the individuals in question must meet this definition:

"'Volunteer' means an officer, director, trustee or other person who performs services for a nonprofit organization but does not receive compensation, either directly or indirectly, for those services. . . ." L. 1987, ch. 215, §1(a)(3). (Emphasis added.)

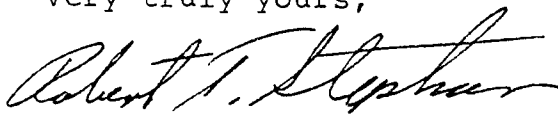
County extension council members, executive board members, and other volunteers do not receive compensation for their services pursuant to K.S.A. 1986 Supp. 2-611(g), which provides in part:

"Members of the county extension council and of the executive board shall receive no compensation for their services as members of the council or of the executive board. . . ." (Emphasis added.)

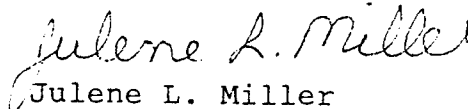
Since county extension council members, executive board members, and other county extension council volunteers receive no compensation for their services, it would appear that they are "volunteers" for purposes of L. 1987, ch. 215. Thus, if a county extension council obtains a 501(c) exemption from federal income tax, and thus becomes a nonprofit organization for purposes of L. 1987, ch. 215, these individuals would be immunized from negligence liability, pursuant to L. 1987, ch. 215.

In summary, without Internal Revenue Code, section 501(c) exemption status, county extension councils do not qualify as "nonprofit organizations" pursuant to L. 1987, ch. 215. However, if county extension councils did have section 501(c) exemption status, and if they carried general liability insurance, then their volunteers would be eligible to receive the negligence liability immunity afforded by L. 1937, ch. 215.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Julene L. Miller
Deputy Attorney General