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ATTORNEY GENERAL OPINION NO. 91- 84

The Honorable Ben Vidricksen, Chairman  
Senate Committee on Apportionment  
Twenty-Fourth District  
713 N. 11th Street  
Salina, Kansas 67401-1814

Re: Constitution of the State of Kansas--Education--  
Members of State Board of Education and State Board  
of Regents; Effect of Redistricting

Schools--State Board of Education; General  
Provisions--Vacancies on State Board; When Vacancy  
Occurs; Effect of Redistricting

Synopsis: A member of the state board of education who,  
because of redistricting, no longer resides in the  
district which elected the member may continue to  
serve on the state board of education until the  
member's term of office expires. Cited herein:  
K.S.A. 25-1911; 72-7503; 72-7504; Kan. Const.,  
art. 6, §§ 2, 3; art. 10, § 1.

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Dear Senator Vidricksen:

As chairman of the senate committee on apportionment, you  
request our opinion regarding the impact of redrawing the  
districts of the state board of education (board).  
Specifically, you ask whether election of board members must  
be held in 1992 in those districts which, through  
redistricting, would no longer have a member of the board

residing in the district or would have two or more members of the board residing in the district.

The state board of education exists for the purpose of providing general supervision of public schools, educational institutions and all the educational interests of the state, except educational functions delegated by law to the state board of regents. Kan. Const., art. 6, § 2. The board consists of ten members with each member representing a district comprised of four contiguous senatorial districts. Kan. Const., art. 6, § 3. See also K.S.A. 25-1911; 72-7503.

Pursuant to article 10, section 1 of the Kansas Constitution, the senate will, at its regular session in 1992, reapportion senatorial districts. Because the districts of the state board of education are comprised of senatorial districts, reapportionment will ultimately result in redistricting the districts of the board. As a result of redistricting, the possibility exists that some members of the board will no longer reside in the districts from which the members were elected and that two or more members of the board will reside in the same district.

Article 6, section 3 of the Kansas Constitution states in part:

"(c) Subsequent redistricting shall not disqualify any member of [the state board of education] from service for the remainder of his term. Any member may be removed from office for cause as may be provided by law." (Emphasis added.)

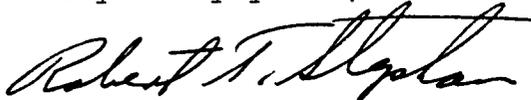
K.S.A. 72-7504 states that a vacancy in a board member position occurs upon the death of a board member, the removal of a board member, or the filing of a written resignation of a board member. The statute then contains language similar to that quoted above.

"(c) In the event that any board member changes his or her residence outside of the district from which he or she was elected, such member shall promptly resign from the state board, and if such a member fails to resign he or she shall be subject to removal from office as provided by law. Any redistricting of board member districts which results in a board member

residing outside of his or her board member district shall not be grounds for removal and shall not disqualify such member from service on the state board for the remainder of the term for which he or she was elected or appointed." K.S.A. 72-7504. (Emphasis added.)

The fundamental rule of statutory construction is that the purpose and intent of the legislature govern when that intent can be ascertained from the statute. U.S.D. No. 279 v. Secretary of Kansas Dept. of Human Resources, 247 Kan. 519, 527 (1990). In K.S.A. 72-7504, the legislature recognizes that a member of the board may no longer be a resident of the district which elected the member when: (1) the member himself transfers his residence to an area outside the district; or (2) through no action of the member, the boundaries of the district are redrawn, resulting in the member's residence being located outside the district. If a member of the board no longer resides in the district which elected the member due to redistricting, the member is not required to resign from the board nor does a vacancy on the board occur. Such a member may continue to serve on the board until the member's term of office expires.

Very truly yours,



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