



STATE OF KANSAS

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October 4, 1991

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ATTORNEY GENERAL OPINION NO. 91-124

Major Ward P. Ferguson
Director
Kansas Department of Civil Air Patrol
Building 328, Mail Stop 52
McConnell Air Force Base, Kansas 67221-5000

Re: State Departments; Public Officers and
Employees--Kansas Tort Claims Act--Kansas
Department of Civil Air Patrol

Labor and Industries--Workers Compensation--
Definitions

Synopsis: Volunteer members of the Kansas department of civil
air patrol are covered by the provisions of the
Kansas tort claims act, including complete immunity
for the functions set out at K.S.A. 75-6104, and
are entitled to a legal defense in the event they
are sued for acts or omissions in the scope of
their employment.

Volunteer members of the Kansas department of civil
air patrol are covered by and subject to the
provisions of the Kansas workers compensation act,
but only to the extent and during such periods as
they are officially engaged in the performance of
functions specified in K.S.A. 1990 Supp. 48-3302.
Cited herein: K.S.A. 1990 Supp. 44-508, as amended
by L. 1991, ch. 144, § 2; 44-511; 48-3302; K.S.A.
75-6101; K.S.A. 1990 Supp. 75-6102, as amended by
L. 1991, ch. 82, § 5; K.S.A. 75-6104; 75-6108;
75-6109.

* * *

Dear Major Ferguson:

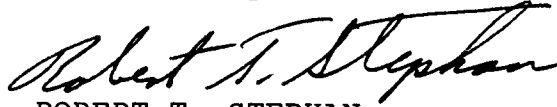
As director of the Kansas department of civil air patrol, you request our opinion on the status of the department and various persons connected therewith under the Kansas tort claims act, K.S.A. 75-6101 et seq. and the Kansas workers compensation act, K.S.A. 44-501 et seq.

K.S.A. 1990 Supp. 48-3301 et seq. establishes the civil air patrol as a department of Kansas state government. The civil air patrol is a "governmental entity" under subsection (c) of K.S.A. 1990 Supp. 75-6102 as amended. As the definition of "employee" in the tort claims act [K.S.A. 75-6102(d)] includes officers, employees, and persons acting on behalf or in the service of a governmental entity in any official capacity, whether with or without compensation, volunteer members of the Kansas department of civil air patrol are employees of a governmental entity under the act. Accordingly, we have no difficulty in concluding that officers, employees and volunteer members of the Kansas department of civil air patrol are covered by the provisions of the tort claims act, including complete immunity for the functions set out at K.S.A. 75-6104 as amended, and are entitled to a legal defense in the event they are sued for acts or omissions in the scope of their employment (K.S.A. 75-6108). In the further event that a judgment is rendered against them for such acts or omissions they may look to the state of Kansas for indemnification. K.S.A. 75-6109.

In regard to the worker's compensation act, subsection (b) of K.S.A. 1990 Supp. 44-508 as amended defines the term "employee" or "worker" to include "persons in the service of the state as volunteer members of the Kansas department of civil air patrol, but only to the extent and during such periods as they are officially engaged in the performance of functions specified in K.S.A. 1990 Supp. 48-3302 and amendments thereto." Additionally, subsection (b)(6)(C) of K.S.A. 1990 Supp. 44-511 prescribes a formula for computing the average gross weekly wage of a volunteer member of the Kansas department of civil air patrol engaged in the performance of functions specified in K.S.A. 1990 Supp. 48-3302. Accordingly, volunteer members of the Kansas department of civil air patrol are covered by and subject to the provisions of the Kansas worker's compensation act, but only to the extent and during such periods as they are

officially engaged in the performance of functions specified
in K.S.A. 1990 Supp. 48-3302 and amendments thereto.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Terrence R. Hearshman
Assistant Attorney General

RTS:TRH:jm