October 14, 1992

ATTORNEY GENERAL OPINION NO. 92-131

Meredith Williams
Executive Secretary
Kansas Public Employees Retirement System
Capitol Tower, Suite 200
400 S.W. 8th
Topeka, Kansas 66603-3925

Re: State Boards, Commissions and Authorities--Public Employees Retirement Systems; State School Retirement System Merger Into KPERS--Eligible Employees; Definition

Synopsis: K.S.A. 1991 Supp. 74-4902 and 74-4932 clearly require that a person be employed in a position requiring 1,000 hours of work per year in order for that person to be considered an eligible employee under KPERS. If a person does not meet this qualification, the person may not participate in KPERS. Cited herein: K.S.A. 1991 Supp. 74-4902; 74-4911, as amended by L. 1992, ch. 321, § 6; K.S.A. 74-4931; K.S.A. 1991 Supp. 74-4932; 74-4935.

Dear Mr. Williams:

As executive secretary for the Kansas public employees retirement system (KPERS), you request our opinion regarding whether certain persons employed by a unified school district may become members of KPERS. These persons generally work for up to 20 hours a week during the school term, but may not work for 1,000 hours per year. Examples of such employment are school bus drivers and school cooks.
Pursuant to K.S.A. 74-4931, public school districts are expressly included as eligible employers as defined in K.S.A. 1991 Supp. 74-4902. Those employees of the school district who are eligible to become members of KPERS are set forth in K.S.A. 1991 Supp. 74-4911, as amended by L. 1992, ch. 321, § 6 and K.S.A. 1991 Supp. 74-4935. The ability to become a member of KPERS is based upon the person's status as an employee of the school district. Employee is defined in K.S.A. 1991 Supp. 74-4932(4) as:

"[A]ny employee of a participating employer which is an eligible employer as specified in K.S.A. 74-4931 and amendments thereto, whose employment is not seasonal or temporary and whose employment requires at least 1,000 hours of work per year. . . ."

A similar definition for employee is set forth in K.S.A. 1991 Supp. 74-4902, also requiring that the employment not be seasonal or temporary and require at least 1,000 hours of work per year.


K.S.A. 1991 Supp. 74-4902 and K.S.A. 1991 Supp. 74-4932 clearly require that a person be employed in a position requiring 1,000 hours of work per year in order for that person to be considered an eligible employee under KPERS. If a person does not meet this qualification, the person may not participate in KPERS. Therefore, a person employed by a
unified school district who works less than 1,000 hours per year may not become a member of KPERS.

Very truly yours,

ROBERT T. STEPHAN  
Attorney General of Kansas

Richard D. Smith  
Assistant Attorney General

RTS:JLM:RDS:jm