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ATTORNEY GENERAL OPINION NO. 92- 137

Joe L. Levy
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Community College
815 Union, P.O. Box 9
Coffeyville, Kansas 67337

Re: Schools--Student Publications Act--School District;
Applicability to Community Colleges

Synopsis: The provisions of the student publications act,
L.1992, ch. 5, §§ 1, 2, 3, are not applicable to
community colleges. Cited herein: L. 1992, ch.
5, §§ 1, 2, 3; U.S. Const., Amend. I.

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Dear Mr. Levy:

As legal counsel for Coffeyville community college, you
request our opinion regarding whether the provisions of the
student publications act, set forth in L. 1992, ch. 5, §§ 1,
2, 3, are applicable to community colleges.

Section 3 of the student publications act states in part that
"[t]he liberty of the press in student publications shall be
protected. . . . Material shall not be suppressed solely
because it involves political or controversial subject
matter." The section then provides that materials may be
reviewed to ensure the materials are consistent with high
standards of English and journalism, and that certain
publications and expressions are not protected by the act.
Subsection (e) then states:

"(e) No publication or other expression of matter by students in the exercise of rights under this act shall be deemed to be an expression of school district policy. No school district, member of the board of education or employee thereof, shall be held responsible in any civil or criminal action for any publication or other expression of matter by students in the exercise of rights under this act. Student editors and other students of a school district, if such student editors and other students have attained the age of majority, shall be held liable in any civil or criminal action for matter expressed in student publications to the extent of any such student editor's or other student's responsibility for an involvement in the preparation and publication of such matter." L. 1992, ch. 5, § 3.

A fundamental rule of statutory construction is that the intent of the legislature governs when the intent can be ascertained from the statute. Steele v. City of Wichita, 250 Kan. 524, 529 (1992). In construing statutes, legislative intent is to be determined from a general consideration of the entire act. Id. Legislative intent can be found in the historical background of an enactment and the circumstances attending its passage. Stauffer Communications, Inc. v. Mitchell, 246 Kan. 492, 496 (1990).

The student publications act was enacted partly in response to the decision of the United States Supreme Court expressed in Hazelwood School District v. Kuhlmeier, 484 U.S. 260, 108 S.Ct. 562, 98 L.Ed.2d 592 (1988). See Minutes, Senate Committee on Education, February 7, 1992. The case concerned the "extent to which educators may exercise editorial control over the contents of a high school newspaper produced as part of the school's journalism curriculum." Id. at 262. In that case, the court drew a distinction between a school's obligation under the first amendment of the United States constitution to tolerate particular student speech and the school's obligation to affirmatively promote particular student speech. The court then held "that educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities so long as their

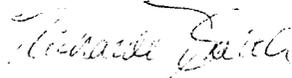
actions are reasonably related to legitimate pedagogical concerns." Id. at 273.

After reviewing the entire act, it certainly appears that the legislature intended for the provisions of the student publications act to apply to school districts. School district is defined in section 2(a) as "any public school district organized and operating under the laws of this state." Community colleges are not included within the definition. Therefore, in our opinion, the provisions of the student publications act, L.1992, ch. 5, §§ 1, 2, 3, are not applicable to community colleges.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Richard D. Smith
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RTS:JLM:RDS:jm