



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

July 17, 1975

ATTORNEY GENERAL OPINION NO. 75-296

Mr. Lynn L. Perkins
Attorney at Law
Counsel for U.S.D. #282
Howard, Kansas 67349

Re: Schools--Board Officers--Elections

Synopsis: The affirmative vote of a majority of a quorum is sufficient to elect officers of a board of education, and the use of secret ballots in such elections is prohibited.

* * *

Dear Mr. Perkins:

As retained counsel for U.S.D. No. 282, you inquire concerning questions arising out of the annual election of board officers which occurred at its meeting on July 7, 1975.

K.S.A. 72-8205 provides in pertinent part thus:

"A majority of the full membership of the board shall constitute a quorum for the purpose of conducting any business of the school district, and the vote of a majority of the full membership of the board shall be required for the passage of any motion or resolution."

You inquire whether the affirmative vote of a majority of the entire board is necessary for the election of officers of the board.

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The statute implies a distinction between general business of the board, and passage of motions and resolutions. A quorum, being a majority of the full membership of the boards, is sufficient to conduct "any business" of the board, meaning implicitly, that the affirmative vote of the quorum alone is sufficient to constitute board action. Passage of motions and resolutions, on the other hand, requires an affirmative vote of a majority of the full board.

The basis for this distinction is not clear. Whatever its reason, it must be followed. The election of board officers is not ordinarily accomplished by motion or resolution; indeed, it is surely the rare exception when the election of a board officer is done by motion or resolution, if at all. We cannot but conclude that the election of board officers requires only an affirmative vote of a majority of a quorum.

You also inquire whether the election of board officers may be done by secret ballot. I enclose a copy of a very recent opinion issued to Representative Jim Lawing, which concludes that the open meeting law, K.S.A. 1974 Supp. 75-4317 et seq. prohibits the use of secret ballots for the election of board officers.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj

Enclosure