



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

August 24, 1976

ATTORNEY GENERAL OPINION NO. 76-267

Mr. Roy Kirby
Attorney At Law
P. O. Box 236
Coffeyville, Kansas 67337

Re: Schools--Vocational Education--State Advisory Council--
Employment of Staff

Synopsis: Staff and personnel employed by the State Advisory Council for Vocational Education are under the complete supervision and control of the Council. The State Board of Education is limited by K.S.A. 72-4409(d) only to approval of the creation and establishment of staff and personnel positions. The State Board of Education has no authority in the employment, supervision or control of personnel occupying such approved staff and positions.

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Dear Mr. Kirby:

As counsel for the Coffeyville Community Junior College, you have inquired as to whether staff and personnel employed by the State Advisory Council for Vocational Education are to be considered as employees of the Council or in the alternative, as employees of the State Board of Education.

This question is brought about by K.S.A. 72-4409(d) which provides

"The state advisory council for vocational education with the approval of the state

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board of education is authorized to employ such persons as may be necessary to carry out its function, and all such employees shall be in the classified service under the Kansas civil service act. The state advisory council with the approval of the state board of education may contract for such professional services as are necessary to carry out its functions."

In my view, the language of subsection (d) clearly limits the role and authority of the State Board of Education to the approval of staff and personnel positions. No authority is granted to the State Board of Education to exercise approval over the individuals selected for those positions previously approved. A grammatical breakdown of the language of subsection (d) shows that the predicate "may employ" follows and relates to the sentence subject, "the state advisory council," and not to the object of the prepositional phrases "...with the approval of the state board of education." The statute clearly delegates authority to employ staff and personnel to the state advisory council.

Additional support for this position is apparent from guidelines issued by the U. S. Department of Health, Education and Welfare promulgated in order to assist in implementing pertinent federal rules and regulations. Relative to the staff and personnel on state advisory councils, 45 CFR Public Welfare at section 102.25 provides:

"Each State advisory council is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable the council to carry out its functions described in §102.23 and to contract for such services as may be necessary to enable it to carry out its evaluation functions. Such personnel shall not include members of the State board, and shall be subject only to the supervision and direction of the State advisory council with respect to all services performed by them for the council."

This section is persuasive authority for the proposition that in implementing federal regulatory measures, the state should maintain effectiveness of the evaluations performed by the Advisory Council by maintaining the autonomy of the Council's staff.

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In conclusion, it is my opinion that staff and personnel employed by the State Advisory Council for Vocational Education are under the complete supervision and control of the Council. The State Board of Education is limited by K.S.A. 72-4409(d) only to approval of the creation and establishment of staff and personnel positions. The State Board of Education has no authority in the employment, supervision or control of personnel occupying such approved staff positions.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:HTW:jj