



STATE OF KANSAS

## Office of the Attorney General

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**Curt T. Schneider**  
Attorney General

February 23, 1977

ATTORNEY GENERAL OPINION NO. 77- 63

Mr. John Dekker  
Director of Law  
Office of City Attorney  
City Hall, 13th Floor  
455 North Main Street  
Wichita, Kansas 67202

RE: Boards of Education - Organization - Powers -  
Finances - School Security Officers

SYNOPSIS: Security officers employed under authority of K.S.A. 1976 Supp. 72-8222 are not "law enforcement officers" required to attend the Law Enforcement Training Academy.

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Dear Mr. Dekker:

You have asked a three part question: (1) Do security officers employed under authority of K.S.A. 1976 Supp. 72-8222 have full law enforcement powers enabling them to make arrests and serve search warrants? (2) Does the aforementioned statute make these security officers "law enforcement officers" with authority to arm themselves and further, are they required to be trained at the Law Enforcement Training Academy? (3) Are these security officers required to maintain criminal record files and comply with federal legislation governing such files?

First, K.S.A. 1976 Supp. 72-8222 itself specifies the powers possessed by these security officers, as well as the ends to which these powers are to be exercised:

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"The board of education of any school district or the board of trustees of any community junior college may employ school security officers to aid and supplement law enforcement agencies of this state and of the community in which such school district or community junior college is located. The protective function of such school security officers shall extend to all school district property and the protection of students, teachers and other employees together with the property of such persons on or in any school property or areas adjacent thereto, or while attending or located at the sponsored function. While engaged in such protective function, as hereinbefore provided, each school security officer so employed shall possess and exercise all general law enforcement powers and privileges in every county in which there is located any part of the territory of such school district or community junior college." [Emphasis supplied.]

The decision whether such security officers shall be employed rests solely with the board of education which "may employ school security officers . . ." [Emphasis supplied.] Further, security officers are employed to "aid and supplement" the regularly constituted law enforcement authorities.

The statute itself reveals the purpose for which security officers may be employed, "the protective function" and it specifically delineates the outer limits of that function. These officers are to protect school property, students, and fellow school employees as well as the property adjacent to school property or property adjacent to the site of a school-sponsored activity, such as a sports contest.

With the plethora of school-sponsored activities comes a substantial increase in the risk that vandalism and interpersonal confrontations may take place. The legislature, in enacting the statute now discussed, recognized the increased protective burden which would ordinarily fall upon regularly constituted law enforcement agencies, and sought to provide the school authorities with the administrative tools to share that burden. Further, the legislature recognized a need for these special school employees to be clothed with law enforcement powers to effectively carry out their protective function.

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The crucial terms in the statute are:

"While engaged in such protective function . . .  
[the security officers] shall possess all  
general law enforcement powers and privileges . . ."

These security officers are not called law enforcement officers, they are merely clothed with law enforcement powers with limited jurisdiction and a limited purpose. Additionally, since they are employed by school authorities, the school authorities determine their specific duty assignments and whether they are authorized to carry arms.

Second, as to whether such security officers are "law enforcement officers" as defined by K.S.A. 1976 Supp. 74-5602(e), the legislature appears to have purposefully excluded such security officers from the definition.

K.S.A. 1976 Supp. 74-5602(e) define "law enforcement officer" and "police officer" to describe those persons who are eligible for attendance at the Law Enforcement Training Academy under K.S.A. 74-5605. Had the legislature intended such security officers to be so included, it could have so provided when it amended K.S.A. 72-8222, and K.S.A. 74-5602(e) in the 1976 session. Further, had the legislature intended such security officers be law enforcement officers, it could have done so at the time it amended K.S.A. 72-8222 enlarging the security officers' jurisdiction to include property adjacent to a site of a school-sponsored activity. There is little to indicate that the legislature intended these security officers to be "law enforcement officers" as defined by K.S.A. 1976 Supp. 74-5602(e). Indeed, K.S.A. 1976 Supp. 74-5602 remains unchanged in its reference to full-time, salaried officers and employees of the state, a county or a city . . ." Boards of education were not included in this section. Therefore, to construe K.S.A. 1976 Supp. 74-5602(e) to include the school security officers employed by school authorities under K.S.A. 1976 Supp. 72-8222 would be contrary to both the underscored language and the apparent legislative intent.

Third, these security officers are not required to keep criminal history record information. The statutory mandate of K.S.A. 1976 Supp. 72-8222 is that the security officers employed by school authorities are to ". . . aid and supplement law enforcement agencies . . ." within the particular community or school district which employs them.

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Further, K.S.A. 1976 Supp. 38-815a(b) provides that:

"All records in this state concerning a public offense committed or alleged to have been committed by a child less than eighteen (18) years of age, shall be kept separate from criminal or other records and shall not be open to inspection, except by order of the district court."

This statute goes on to say that any record so made must be reported to the district court judge who has the power to expunge such record.

Because K.S.A. 1976 Supp. 72-8222 provides that the security officers are to "aid and supplement law enforcement agencies" there appears no occasion for these officers to maintain such records. Should a need arise for records, the regularly constituted law enforcement agencies are best equipped to perform that function.

Therefore, because school security officers are not law enforcement officers as defined by K.S.A. 1976 Supp. 74-5602(e), they are not required to attend the Law Enforcement Training Academy, nor to arm themselves, nor to maintain criminal history record information.

Very truly yours,



CURT T. SCHNEIDER  
Attorney General

CTS:MSM:kb