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August 6, 1984

ATTORNEY GENERAL OPINION NO. 84- 79

Maynard L. Brazeal, Director
Kansas Law Enforcement Training Center
P.O. Box 647
Hutchinson, Kansas 67504

Re: State Boards, Commissions and Authorities--
Law Enforcement Training Center; Advisory
Commission--Certification of State and Local
Law Enforcement Training Schools

Schools-Community Colleges--Organization, Powers
and Finances of Board of Trustees; Power of
Boards to Contract

State Departments; Public Officers and Employees--
Agreements with Educational Institutions--Contracts
with State Agencies

Synopsis: The law enforcement training schools that are
to be certified annually under K.S.A. 1983 Supp.
74-5604a(a), are those training schools of state
or local law enforcement agencies only. A law
enforcement training program which is offered solely
as an approved course of a community college and
which is not provided on behalf of a law enforcement
agency pursuant to a duly authorized contract, is
not eligible for certification as a state or local
law enforcement agency training school.

Any state law enforcement agency and any community
college are granted authority by K.S.A. 1983 Supp.
75-3099 to enter into an agreement for the community

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college to provide instruction on behalf of the state law enforcement agency. A law enforcement training program which is provided by a community college pursuant to such an agreement would be eligible for certification under K.S.A. 1983 Supp. 74-5604a(a). However, boards of trustees of the state's community colleges have not been granted the authority to contract with local law enforcement agencies to provide instruction on behalf of such agencies. Consequently, a local law enforcement agency training school cannot be conducted by a community college. Cited herein: K.S.A. 1983 Supp. 71-201, as amended by L. 1984, ch. 256, §1; 74-5604a; 75-3099.

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Dear Mr. Brazeal:

You seek our opinion on whether a law enforcement training program offered at a community college may be certified as a "state or local law enforcement agency training school" under K.S.A. 1983 Supp. 74-5604a(a). You assert that such may not be done because, under any such program, the community college would be entitled to credit-hour state aid and, under certain circumstances, out-district state aid and out-district tuition, and this would be inconsistent with the funding mechanism for law enforcement training established by the legislature. Also, you state that any such training program would not be "sponsored principally by . . . [a] law enforcement agency, but by a junior [sic] college." Thus, the training program would not be eligible for certification under K.S.A. 1983 Supp. 74-5604a(a).

Subsection (a) of K.S.A. 1983 Supp. 74-5604a, in part, provides:

"The associate director [of the division of continuing education of the University of Kansas] shall . . . certify annually the training schools of state and local law enforcement agencies providing a course of law enforcement training for full-time police officers and law enforcement officers of not less than 320 hours of instruction, and whose training programs also satisfy the qualifications and standards promulgated by the associate director after approval of the commission." (Emphasis added.)

Due to the above-emphasized language of this statute, we concur with your conclusion that only training schools of state or local law enforcement agencies are eligible for certification under this statute. Thus, we also concur that a law enforcement training program which is offered solely as an approved course of a community college and which is not provided on behalf of a law enforcement agency is not eligible for certification as a state or local law enforcement agency training school.

However, this does not mean a law enforcement training program offered at a community college and taught by community college instructors can never be certified as a state law enforcement training school. We think such can be done, under certain circumstances.

Pursuant to K.S.A. 1983 Supp. 75-3099, the governing body of any community college and any state agency are granted authority to contract with each other for the provision of instruction at either the educational institution or off the campus. This authority is subject, however, to specific limitations as to the amount to be paid by the state agency for the instruction provided and is also subject to the provision that:

"(c) (1) No credit hour state aid entitlement and no out-district state aid entitlement of an educational institution shall be based upon any subject, course or program which is taught under an agreement with a state agency, and no such subject, course or program shall be counted in determining the number of credit hours of out-district students for the purpose of determining the amount of out-district tuition to be charged by an educational institution."

Thus, in our judgment if a state law enforcement agency enters into an agreement with a community college for the provision of a law enforcement training program, by the community college on behalf of the state law enforcement agency, the program would be eligible for certification under 74-5604a(a). The fact the program would be offered at the community college and taught by community college instructors would not disqualify the program as a state law enforcement agency training school.

However, we find no corresponding statute to 75-3099 which authorizes a local agency and a community college to enter into an agreement for the provision of instruction by the community college. While it may be argued city or county home rule power could be utilized to provide the authority for a city or county law enforcement agency to enter into such an agreement, there is

no comparable mechanism by which the governing body of any community college could be authorized to enter into such an agreement. Thus, a threshold question is whether the governing body of a community college possesses the authority to contract with any local law enforcement agency for the community college to provide instruction in law enforcement on behalf of the local agency.

While we note that each board of trustees of the state's community colleges is granted authority under paragraph (b)(7) of K.S.A. 1983 Supp. 71-201, as amended by L. 1984, ch. 256, §1, "[t]o enter into contracts," we also note the legislature has been very specific in allowing such boards to enter into contracts concerning the provision of instruction, either by the community colleges or on their behalf. Regarding the former, we have already cited K.S.A. 1983 Supp. 75-3099. In regard to the latter, we note paragraph (15) of K.S.A. 1983 Supp. 71-201(b), as amended, which provides, in part, that boards of trustees of community colleges are authorized "[t]o contract with one or more agencies, public or private . . . for the conduct by any such agencies of academic or vocational education for students of the community college. . . ." (Emphasis added.) Thus, we note two instances in which the legislature has specifically addressed the authority of boards of trustees to enter into agreements with other agencies in regard to the provision of instruction. Each of those authorizing statutes contains provisions regarding payment for the services rendered.

If a board of trustees were to attempt to contract with a local law enforcement agency to provide law enforcement training, no statute exists which specifies the manner in which the community college is to be paid for its services, or which addresses the matters of out-district tuition or state aid payments. Given the enactment of K.S.A. 1983 Supp. 75-3099, we think these are matters which the legislature would be required to address before a board of trustees entered into an agreement with any local law enforcement agency. Thus, in light of the provisions of K.S.A. 1983 Supp. 71-201(b)(15), as amended, and 75-3099, and the lack of similar provisions regarding contracts between boards of trustees of community colleges and local governmental agencies, we do not believe the board of trustees of any community college possesses the authority to contract with any local law enforcement agency to provide law enforcement training on behalf of such agency.

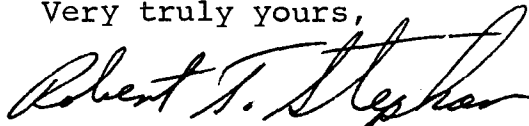
In summary, it is our opinion that the law enforcement training schools that are to be certified annually under K.S.A. 1983 Supp. 74-5604a(a), are those training schools of state or local

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law enforcement agencies only. A law enforcement training program which is offered solely as an approved course of a community college and which is not provided on behalf of a law enforcement agency pursuant to a duly authorized contract, is not eligible for certification as a state or local law enforcement agency training school.

Any state law enforcement agency and any community college are granted authority by K.S.A. 1983 Supp. 75-3099 to enter into an agreement for the community college to provide instruction on behalf of the state law enforcement agency. A law enforcement training program which is provided by a community college pursuant to such an agreement would be eligible for certification under K.S.A. 1983 Supp. 74-5604a(a). However, boards of trustees of the state's community colleges have not been granted the authority to contract with local law enforcement agencies to provide instruction on behalf of such agencies. Consequently, a local law enforcement agency training school cannot be conducted by a community college.

Very truly yours,



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Attorney General of Kansas



Rodney J. Bieker
Assistant Attorney General

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