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October 21, 2026

**ATTORNEY GENERAL OPINION NO. 2026-12**

Douglas G. Ott  
815 Union Street  
P.O. Box 9  
Coffeyville, Kansas 67337

Re: Schools—Community Colleges—Organization, Powers and Finances of  
Boards of Trustees—Boards of Trustees; Powers and Duties

Schools—Community Colleges—Community College Elections—Board  
of Trustees' Composition; Methods of Election; Membership Prohibited  
for College Employees

Synopsis: K.S.A. 71-1403(d) prevents any member of the board of trustees of a  
community college from being an employee of the community college.  
Under the facts provided, the Executive Director of the Coffeyville  
Community College Foundation is an employee of the College. As such,  
he cannot serve as a member of the Coffeyville Community College  
Board of Trustees. Cited herein: K.S.A. 71-201; K.S.A. 71-1403; K.S.A.  
74-4901; K.S.A. 74-4902; K.S.A. 75-4304; 26 U.S.C. § 501(c)(3).

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Dear Mr. Ott:

As the attorney for Coffeyville Community College, you ask whether Dickie Rolls, the executive director of the Coffeyville Community College Foundation, can simultaneously serve on the College's Board of Trustees, to which he was elected, while maintaining his role as the Foundation's executive director. If he cannot, you ask whether he would be able to retain his position as executive director in two slightly different hypothetical situations.

We conclude he cannot. Although the Foundation is a standalone 501(c)(3) organization separate from the College, the executive director likely qualifies as an employee of the College, preventing Rolls from serving on the Board under state law.

### **K.S.A. 71-1403(d)**

The Board of Trustees operates as the governing body of the College.<sup>1</sup> K.S.A. 71-1403(d) states that "[n]o member of the board of trustees of a community college shall be an employee of the community college."<sup>2</sup> The statute does not distinguish between "executive-level or other employees."<sup>3</sup> Thus, if Rolls, as executive director of the Foundation, is employed by the College, he cannot serve on the Board.

While no absolute rule exists for determining whether a person is an employee or independent contractor, an independent contractor is defined as "one who, in exercising an independent employment, contracts to do certain work according to his or her own methods, without being subject to the control of the employer, except as to the results or product of his or her work."<sup>4</sup> The primary test for determining whether an employer-employee relationship exists is:

whether the employer has the right of control and supervision over the work of the alleged employee and the right to direct the manner in which the work is to be performed, as well as the result which is to be accomplished. It is not the actual interference or exercise of the control by the employer but the existence of the right or authority to interfere

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<sup>1</sup> See K.S.A. 71-1403(a).

<sup>2</sup> Your question, and our answer, centers on the applicability of K.S.A. 71-1403(d). We do not address whether other legal principles, such as the common-law incompatibility of offices doctrine, may prevent Rolls from serving in both roles simultaneously. See Att'y Gen. Op. No. 2022-8, at \*3 (quoting *Unified Sch. Dist. No. 501 v. Baker*, 269 Kan. 239, 248, 6 P.3d 848 (2000); Att'y Gen. Op. No. 2007-43, at \*3 (quoting Att'y Gen. Op. No. 1997-63 (quoting 63A Am. Jur. 2d Public Officers and Employees § 78 (1984))).

<sup>3</sup> Att'y Gen. Op. No. 2015-12, at \*1.

<sup>4</sup> *Hartford Underwriters Ins. Co. v. State, Dept. of Human Resources*, 272 Kan. 265, 270, 32 P.3d 1146 (2001); see *Mitzner By and Through Bishop v. State*, 257 Kan. 258, 261, 891 P.2d 435 (1995).

or control, which renders one a servant rather than an independent contractor.<sup>5</sup>

An independent contractor is a person who, in exercising independent employment, contracts to work according to the contractor's own methods and is subject to the employer's control only as to the end product or final result of the work.<sup>6</sup> Generally, the question of whether an individual is an employee is a question of fact.<sup>7</sup>

Although the Foundation is separate from the College, organized under 26 U.S.C. § 501(c)(3), the remaining facts you provided persuade us that the executive director qualifies as an employee of the College. First, the College President hired Rolls to serve as the Foundation's Executive Director. Thus, the College, not the Foundation, hires and fires Rolls. Additionally, Rolls is employed under an administrative contract with the College, rather than the Foundation. As a result, the College, not the Foundation, employs Rolls as executive director.

Second, the College, not the Foundation, pays the executive director's salary and provides him with medical insurance through the College. And the College President sets the executive director's salary. Thus, the College not only employs the executive director but directs the compensation as well.

Finally, the executive director receives KPERS benefits, which are state retirement benefits earned by employees of participating employers.<sup>8</sup> An "eligible employer" means the state of Kansas, and any county, city, township, special district or any instrumentality of any one or several of the aforementioned."<sup>9</sup> As an instrumentality of Montgomery County, the College qualifies as an eligible employer. An "employee" means any appointed or elective officer or employee of a participating employer whose employment is not seasonal or temporary and whose employment requires at least 1,000 hours of work per year."<sup>10</sup> Thus, for Rolls to be eligible to receive KPERS benefits, the executive director would have to be an employee of the College.

Additional facts about the Foundation reinforce our conclusion. The Foundation is physically located on the College's campus in the Walker Alumni Center Offices.<sup>11</sup> Its webpage appears on the College's website.<sup>12</sup> The stated purpose of the

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<sup>5</sup> *Hartford Underwriters*, 272 Kan. at 270; see *Craig v. FedEx Ground Package System, Inc.*, 300 Kan. 788, 794, 335 P.3d 66 (2014).

<sup>6</sup> *Id.* at 271.

<sup>7</sup> *Mitzner*, 257 Kan. at 261.

<sup>8</sup> See K.S.A. 74-4901.

<sup>9</sup> K.S.A. 74-4902(13).

<sup>10</sup> K.S.A. 74-4902(14).

<sup>11</sup> See Coffeyville Community College Foundation, <https://www.coffeyville.edu/college-foundation> (last visited August 21, 2026).

<sup>12</sup> See *id.*

Foundation is to “raise money to support the scholarship programs on campus.”<sup>13</sup> Standing alone, each of these facts would be insufficient to classify Rolls as an employee. But combined, they lead us to conclude that he is an employee of the College.

In summary, the executive director is an employee of the College, so he cannot serve as a Trustee of the College. The College hires, contracts with, and can terminate the executive director. The College sets and pays his salary and provides medical insurance. And the executive director receives KPERS benefits through his or her employment.

Given our conclusion that Rolls may not simultaneously serve in both positions, you ask if that determination would be different in two slightly different hypothetical situations. First, you ask if the executive director of the Foundation could serve on the Board of Trustees if the Foundation board hired and compensated the executive director. Second, you ask if the executive director could serve on the Board if the Foundation board compensated the executive director and the College reimbursed the Foundation for the executive director’s salary and benefits.

Neither hypothetical alternative would change Rolls’s status as an employee of the College. The College would still maintain the right to control Rolls in his role as Executive Director of the Foundation.<sup>14</sup> In the second alternative, the College pays the executive director’s salary. Finally, the executive director continues to receive medical insurance and KPERS benefits through the college. The executive director thus falls under K.S.A. 71-1403(d)’s prohibition against members of the Board of Trustees being employees of the College. Thus, Rolls may not serve both as executive director of the Foundation and a member of the Board of Trustees.

Sincerely,

/s/ Kris W. Kobach

Kris W. Kobach  
Attorney General

/s/ Ryan J. Ott

Ryan J. Ott  
Assistant Solicitor General

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<sup>13</sup> *Id.*

<sup>14</sup> See *Hartford Underwriters*, 272 Kan. at 270 (explaining the primary test to determine whether a person is an employee is whether the employer exercises the right of control and supervision of the alleged employee’s work).