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ATTORNEY GENERAL
STATE OF ILLINOIS
SPRINGFIELD

April 20, 1982

FILE NO. 82-007

COUNTIES:
County Board Indemnification of a
Regional Board of School Trustees

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Honorable Robert J. Morrow
State's Attorney, Kane County
719 Batavia Avenue
Geneva, Illinois 60134

Dear Mr. Morrow:

I have your letter in which you ask whether a county may agree to indemnify members of a regional board of school trustees. In your letter, you cite Public Act 82-236, effective January 1, 1982, and opinion No. S-1429, issued April 30, 1979 (1979 Ill. Att'y Gen. Op. 56), which relates to representation of regional boards of school trustees by State's Attorneys. You ask whether new section 6-21 of The School Code (added by Public Act 82-236, to be codified at Ill. Rev. Stat., ch. 122, par. 6-21) or any other statute would support a

decision by your county board to indemnify members of your regional board of school trustees. For the reasons hereinafter stated, it is my opinion that a county has no authority to contract to indemnify members of a regional board of school trustees.

New section 6-21 of The School Code provides as follows:

> "Sec. 6-21. Legal Representation. Upon request, the State's Attorney of the county, other than a county of over 3,000,000 inhabitants, where the regional superintendent's office is located shall act as the legal representative of the regional board of school trustees; however, where matters arise which are within the exclusive jurisdiction of another State's Attorney, that State's Attorney shall provide legal representation."

An unambiguous statute must be construed to mean what it plainly expresses, and its plain and obvious meaning may not be enlarged or restricted. (Illinois Power Co. v. Mahin (1978), 72 Ill. 2d 189, 194; Certain Taxpayers v. Sheahan (1970), 45 Ill. 2d 75, 84.) The unambiguous language of section 6-21 provides that, when requested to, a qualifying State's Attorney shall act as legal representative of the regional board of school trustees located in his county. To this extent only, new section 6-21 of The School Code supersedes that part of opinion No. S-1429 in which my predecessor advised to the contrary. 1979 Ill. Att'y Gen. Op. 56, 57.

Neither section 6-21 nor any other provision of The School Code authorizes a county to indemnify members of a

regional board of school trustees. Indemnification is, therefore, neither authorized nor required by The School Code.

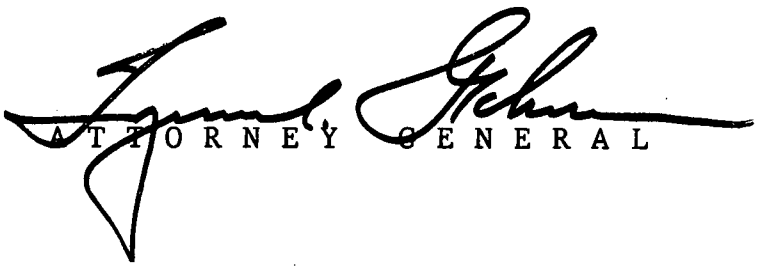
My predecessor concluded in opinion No. S-1429, that a regional board of school trustees is a body politic and corporate under The School Code (Ill. Rev. Stat. 1980 Supp., ch. 122, par. 6-2); that it is a local governmental entity distinct from the county or counties comprising it, and that its members are not county officials. (1979 Ill. Att'y Gen. Op. 56, 57.) Thus, there is no principal/agent relationship between the county board and a regional board of school trustees, constituting "a legal relationship upon which a duty to indemnify could be predicated". (See, Marchi v. Indiana Harbor Belt R.R.Co. (1980), 83 Ill. App. 3d 1005, 1007.) Furthermore, no other statute provides for indemnification of a regional board of school trustees by any county.

A non-home-rule county has only such powers as are given it by law or as arise by necessary implication from those expressly granted. (Ill. Const. 1970, art. VII, § 7; Heidenreich v. Ronske (1962), 26 Ill. 2d 360, 362.) Counties are authorized by statute to indemnify sheriffs or their deputies. (Ill. Rev. Stat. 1979, ch. 34, par. 301.1.) Further, counties are granted discretionary authority to indemnify other officers or employees of the county for judgments based on tortious conduct arising out of the scope of their employment. (Ill. Rev. Stat. 1979, ch. 85, par. 2-302.) There is no basis for

extension of the statutory authority granted to counties to indemnify sheriffs, their deputies, or other county officers or employees to any other persons.

Therefore, it is my opinion that, in the absence of specific statutory authority, counties cannot agree to indemnify members of a regional board of school trustees.

Very truly yours,



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