

THE ROLE OF THE SCHOOL DISTRICT
ATTORNEY IN OKLAHOMA

By

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CHAPTER I

INTRODUCTION

The role of the school attorney in the operation of local public school districts is clearly expanding. As America grows, our public school districts are also expanding. As America grows, our public institutions become less personal, and people are less loathe to seek redress in the courts if it appears that their rights are in jeopardy. The growing impersonalization of the public schools, in tandem with the accelerating litigiousness of the American people generally and the lack of hesitancy of our courts to create new rights and make new laws to meet the changing times, have fabricated the specter of the Imminent Lawsuit which hangs over every weave and turn of the school district managerial decision-making process today. This development has made the role of the school attorney more significant in the educational enterprise and his/her job far more challenging than ever before. The school attorney is an integral part of the creative problem-solving process which characterizes the imaginative, forward-looking school board member and school administrator management team today (McGhehey, 1969).

America's public schools are changing at a intensely fast rate, so rapidly that within the past several years, it has been difficult to find a book or article that does not stress change. The same comments can be made about the role of the school attorney with great accuracy.

The advent of desegregation, negotiations, and pupil unrest has changed the school attorney's basic functions drastically, and many would say that the manner in which the attorney's role is played has not yet caught up with these and other changes in the American educational system (McGhehey, 1969).

It is amazing that the school attorneys and his/her role has been so generally overlooked in courses where one would expect to find information. Handbooks prepared by state school boards associations for reference use by school board members make no allusion at all to the attorney's duties, functions, and relationships with either the board or the superintendent; and textbooks in educational administration, which analyze exhaustively the functions of administrators, teachers, custodians, cafeteria workers, and school bus drivers, completely ignore the attorney's existence. Is it to be assumed that the role of the school attorney is clearly understood and effectively performed? Though the school attorney's role is clearly understood and his working relationships with the board and superintendent effective in some school districts, this situation is the exception rather than the rule (McGhehey, 1969).

The nature of the problem encountered by the school attorney requires a high degree of technical competency and an appreciation of public education. It is a difficult role. A study of the employment of school attorneys, services provided, administrative relationships and descriptions of the attorney by size of districts could provide an essential administrative resource for public schools.

Statement of the Problem

The purpose of this study is to determine the role of the school district attorney in the State of Oklahoma by a thorough examination of expert-identified aspects of the position. Specifically, answers will be sought for the following questions:

1. How many public school districts in Oklahoma employ a school district attorney on a continuing basis?
2. What kinds of legal advice is the school district attorney asked to provide?
3. How does the school district attorney participate in the decision-making process as viewed by the school board president?
4. How does the school district attorney participate in the decision-making process as viewed by the superintendent?
5. What is the degree of similarity or difference in the role of the school attorney as compared with how that role is seen by the school board president, the superintendent, and by the attorney?
6. What is the degree of similarity or difference in the role of the school district attorney between school districts of various enrollment sizes?
7. What is the degree of similarity or difference in the method of payment for legal fees among school districts in the State of Oklahoma with various enrollment sizes?
8. Is there a relationship between the method of payment and the attorney's role?
9. What is the relationship between the location of the school district attorney's office and size of the district, and is there a relationship between the distance and the attorney's role in the

district?

10. What is the average amount of compensation spent for legal services across district enrollment sizes?

11. Is there a relationship between compensation levels, district sizes, and types of employment agreement?

12. How are the attorney's services delivered in districts of various sizes?

13. Where are personal conferences regarding the legal aspects of school matters generally held?

14. Who is the source of direction or communication for the attorney in various sizes of districts?

15. Where do superintendents turn first for answers to their legal questions?

Need for the Study

There have been no studies conducted examining the relationship of school attorneys to school districts, the role of school attorneys, or the degree of usage of school attorneys by the public schools in Oklahoma. The need for this study emanates from this dearth of knowledge and from the fact that litigation and the potential for litigation is increasing at an alarming rate in Oklahoma as well as in the rest of the nation.

There is an increased need in Oklahoma to understand the importance of and the nature of the role of the school attorney. This study will establish a base of information regarding the perceptions of the role of the school attorney in Oklahoma which can be shared by all school districts in the state thereby contributing to a better

understanding of the role of the school attorney.

Significance of the Study

The significance of this study lies in its potential impact on the educational and legal systems in Oklahoma. As litigation and the potential for litigation increase for the public schools in Oklahoma, the possibility becomes greater that valuable public school resources, including human as well as physical will be increasingly engaged in litigation and will be lost, some permanently, to the school district.

To prepare for these eventualities and be better able to combat these losses and alleviate unnecessary stress on school boards and administrators, a better understanding of the proper role of the school attorney will be helpful.

Gone are the days when the majority of the parents supported the school district and punished "Johnny" at home if he was punished at school. Also, gone are the faculty who meekly obeyed the school administrators and who never asked for any workplace considerations other than their salary. Now are the days of negotiations with teacher unions and hostile parents; a proliferation of state and federally mandated programs, and an integration of socioeconomic groups as well as racial and cultural groups. And, there are a host of things not even thought of a decade ago.

These types of things have so complicated the administration of public schools that neither the superintendent nor the board of education can be expected to do the legally correct thing in every situation. The role of the school attorney has attained tremendous

importance and it will become even more important in the future. Consequently, it is vital, not only to the school administrator, but to the attorney as well, that the proper role of the attorney in the governance and operation of the school district be determined.

This study gathered and analyzed the perceptions and expectations that the major participants: the attorney, the superintendent, and the school board president have of the role of the school attorney. An analysis of these perceptions/expectations was used to determine if any differences among these occupational respondents and the size of their school district existed and if so, where they existed. It is hoped that a result of this study will be that a foundation for a better understanding and use of school attorneys will be formed and it will be a benefit for all Oklahoma public schools and school attorney.

Limitations

This study focused on finding answers to the 15 questions already mentioned. It did not attempt to analyze the school attorney's effectiveness, predict that person's role in school districts, nor evaluate the role of an attorney who represents a private or parochial school.

Definitions

The following terms have been defined to aid the reader of the completed study.

Role is a pattern of activity. It is a set of shared expectations focused upon a particular position. These expectations include beliefs about what goals or values the position incumbent is to

pursue and the norms that will govern behavior.

Role Expectations is how a person in one position in a social organization, i.e., school district, expects a person in another position in the school organization to behave.

School Board President is a member of the school board who has been elected by his/her group to be the chairman of the group.

School District Attorney and School Attorney will be used interchangeably to mean the person who has been hired by the district to provide legal services and counsel.

Superintendent is the executive officer who has been employed by the school board to execute policy and administer the schools, either directly or through his delegated staff.

Principal of a dependent school and dependent principal is used interchangeably. This is the chief administrative officer of a school which typically is an elementary school that does not extend past the eighth grade. These schools are under the supervision and control of the County Superintendent of Schools.

CHAPTER II

REVIEW OF THE LITERATURE

Introduction

In this chapter, an analysis and overview of the literature that pertains to the school attorney was made. This overview included a review of the laws and rules and regulations at the state level that refer to legal counsel for public schools and the local boards of education. The review of literature concluded with a look at the current research literature that has been conducted in this area.

It appears from the data obtained in the literature search that more research has been conducted in this decade than in all of the preceding decades. This review of the literature is timely and pertinent and will aid in interpreting and comparing the role of the school attorney in Oklahoma with similar studies in other states.

Legal Foundations

A good beginning of an examination of the existing literature on the role of the school attorney is to look at the legal guidelines of that role. An examination of the Title 70 of Oklahoma Statutes, Annotated, reveals:

1. Every school district shall be a body corporate and shall possess the usual powers of a corporation by the name and style of independent (or dependent, if it is a dependent school district). School district number (such a number as may be designated by the county superintendent of schools) of the

name of the county in which the school district is located, or if lying in more than one county, the name of the county whose county superintendent has jurisdiction) County, Oklahoma and in that name may sue and be sued . . . (70, O.S. (S) 5-105).

2. The governing board of each school district in Oklahoma is hereby designated and hereafter shall be known as the board of education of such district. The superintendent of schools appointed and employed by such board shall be the executive officer of such board and shall perform such duties as said board directs (70 O.S. (S) 5-106).
5. The board of education of each school district shall have power to: contract with and fix the duties and compensation of attorneys, (and others), and pay their necessary travel expenses (70 O.S. (S) 5-117).

(School Laws of Oklahoma, published by the Oklahoma State Board of Education.)

Oklahoma school boards have the authority to administer lawfully the schools in all phases of operation. Oklahoma school boards also have the right and the power to hire attorneys to provide legal counsel or to represent the district in litigation when necessary.

In addition to the Oklahoma Statutes and School Laws of Oklahoma,, other references referring to the powers and practices of local school boards to employ and use attorneys are those found in the Oklahoma Attorney General opinions. Among these are:

1. Attorney may be employed and paid a retainer fee for his services by a Board of Education. September 3, 1949.
2. School district cannot pay attorney's fees for defending member of board of education in ouster action filed by grand jury, regardless of outcome of ouster. December 14, 1955.
3. Attorney General will not give opinion to County Attorney to enable County Attorney to give legal advice to board of education. March 27, 1962 (School Laws of Oklahoma, 1986, pp. 60-62).

Barksdale (1988), school attorney for Okmulgee Public Schools,

stated that public school districts cannot expect to receive legal assistance, except in the case of violations of state and county statutes, from County or District Attorneys because the Oklahoma Statutes do not require the County or District Attorneys to provide the school districts with free legal advice in the everyday business of running a school district. That is why when public schools in Oklahoma need legal counsel they must hire a private attorney or law firm.

4. When school district and its board of education are sued, or when individual members of the board are sued only in their official capacity and no individual liability is sought to be imposed, their attorney fees and legal costs may be paid from public funds. February 23, 1973.
5. When district superintendent and principal are sued as individual defendants in an action involving their performance of official duty, public funds cannot be expended for payment of legal costs of defense, unless board of education has assumed responsibility of defending such actions as part of compensation of employees in a previously negotiated employment contract. February 28, 1973.
6. District funds cannot be used to pay legal fees in criminal action arising from operation of district-owned vehicles. August 29, 1975.
7. Lawful for board of education to contract with law firm on contingent fee basis. December 12, 1978. (School Laws of Oklahoma, 1986, p. 64).

It is clear that Oklahoma school boards are legally liable for governing their respective school districts. It is also clear that the local school boards may employ attorneys and pay them on an hourly basis or a contingent fee basis.

Need for a School Attorney

American society entered the second half of the twentieth century with a determination to attack barriers to individual rights and

freedoms. That determination spawned what history may yet record as the Era of Litigation. Launched by "Brown v. Topeka Board of Education", fostered by "Tinker v. Des Moines", illuminated by "Rodrigues v. San Antonio Independent School District", and advanced by "Goss v. Lopez", education-related litigation flowed as never before during the first 150 years of the nation's history (Hawkins, 1986).

Excessive litigation and the accompanying impact of judicial intervention greatly influenced education and its governance during the period 1950 to 1985. Most individuals accept this phenomenon but awareness is growing that a redirection away from reliance on litigation is urgently needed (Hawkins, 1986).

Neither the study of educational reports nor the review of legal documents affords solid data on the extent to which educational systems have been involved historically with the courts. Public education as a state function was both benefited and hampered over the years by its relationship with state and federal judicial systems. The federal relationship was especially limited since few cases arising in education reached the federal level during the early years of this nation. It was reported that not more than three instances of litigation on public education issues which resulted in decisions reached the federal courts during 1951, yet, in 1971, the number of education cases in the federal courts had increased to nearly 150. In 1978 a Phi Delta Kappa study compiled the significant Supreme Court decisions affecting education. Of 162 cases reported, 27 occurred prior to 1950 and 135 during the remaining years, 1950-1977. While these data do not confirm the number of cases filed, they at least indicate that an avalanche of litigation occurred in that time period

(Hawkins, 1986).

The decisions by the Supreme Court represent only the top of the pyramid of litigation. The volume of litigation is at lower jurisdictions. Opinions differ regarding whether educational lawsuits are disproportionate to those in other segments of society. Two facts, though, are indisputable: (1) litigation in education has increased significantly, and (2) educational litigation has broad impact (Hawkins, 1986).

What brought about this significant increase in the use of the courts to settle legal disputes in education? A changing society with new values and different perspectives about governmental services was one important factor. According to one authority the increased litigation came about for two reasons. First, federal courts have abandoned their hands-off policy toward some matters traditionally left to the discretion of school boards, and second, school cases have become increasingly concerned with questions of constitutional rights. This trend toward intervention may not have peaked but may still be moving toward higher levels of activity (Hawkins, 1986).

At the very core of the American legal system is the principle that for every wrong done to an individual by government or by another individual, there should be a remedy provided. (The remedy will be in the form of compensation or relief.) A citizen must be protected from injustice and must also have some place to go to seek justice. In our social structure the courts of this nation exist for such purposes (Hawkins, 1986).

The nature of political systems such as schools demands that the decisions made by boards and administrators usually relate to people-

students, employees, or the constituency in the community. In education the political process is governed at the operational level by administrative law, the policies and regulations that determine not only how things will be done but whether a decision is consistent with the existing organizational structure (Hawkins, 1986).

Problems are generated primarily by demands and interactions of the community, the board, the administrators, the faculty, and the staff. Bases for settlement usually evolve from local policies and regulations, custom and practice, and due process and appeals. Courts normally do not intervene in conflict resolution without one or both parties requesting such involvement. Litigation may occur either through the board's choice to use litigation or as the result of its being named a defendant in a law suit (Hawkins, 1986).

The "legalization of education" is a fait accompli. Unraveling this quilted characterization reveals three illuminative threads.

First, the focus is shifting from litigation to legalization. Spurred by the national reform reports, legislatures have spewed forth requirements for competency testing of students, competency testing of teachers, career ladders, recertification training, and so forth. Second, the locus is shifting from the federal to the state level.

Last, the issues are now extending to the "micro" level of classroom teaching and learning. The teacher is no longer the unquestioned ruler of the classroom kingdom, the law has got in the door. The courts have produced enough relevant decisions, over 100 in the past decade, to provide a full chapter or book tentatively titled the "New Law of Curriculum" (Zirkel, 1986).

Inasmuch as more legislation ultimately leads to more litigation

and state level activities means variety and multiplicity, the courts are bound to increasingly interface with the schools in relation to instructional issues (Zirkel, 1986).

The limits of legalization that apply to the schools include the promotion of formality to the point of adversability and the elevation of procedure over substance such that a meticulous preoccupation with due process becomes an end in itself (Zirkel, 1986).

Reacting, and at the same time contributing, to such trends, some school officials avoid liability by avoiding education. Adopting a posture of defensive education, they avoid instructional topics and techniques that entail creativity or controversy. Not daring to approach, much less assess and assume risks, they may steer the enterprise toward bland and boring content and endless paperwork and procedures (Zirkel, 1986).

Other school officials adopt the proverbial postures of the ostrich with its head in the sand or the bull in the china shop. They become preoccupied with pedagogical and political concerns to the point of neglecting or rejecting the law until a costly crisis arises. They vent their frustrations, often via jokes and occasionally via written commentary, that rely on scapegoating stereotypes of lawyers and judges (Zirkel, 1986).

It is obvious to any practicing administrator that the courts and legislators are trying to respond to a changing public attitude concerning the respective powers and rights of superiors and subordinates. Law had the practical function of adjusting everyday relationships so as to meet current ideals of fair play. But while the idea is noble, the interim result is a difficult transition period, a

pretzel intertwined with contradictory decisions, inconsistent opinions, and hazy precedents. The perception to the practicing administrator is that the public schools are being hemmed in by excessive legalism (Jones, 1986).

Legalism may be defined as excessive emphasis on the law. Legalism has proliferated into a national religion. Lawyers constitute our priesthood and the courtroom has become our cathedral. The litigation explosion is making it increasingly difficult for school administrators to make decisions that enhance the quality of public education. Those who exercise strong leadership risk being stymied by a legal challenge with the accompanying adverse publicity, legal expense, political liability, and the prospects for adverse rulings. The problem is compounded by the threat of personal liability. And, when public officials and board members can be sued individually for personal damages, they react by reining in their willingness to take risks in making decisions (Jones, 1986).

The net effects are nonassertive leadership which seldom makes for bold initiative or clear-cut decisions. That is generally the opposite of communities desire and view as the needs for education. Yet any employee who anticipates that disciplinary measures are about to be taken against them can immediately issue an outrageous public statement, often times at the encouragement of his/her attorney, criticizing the school system and its leadership. If the planned disciplinary actions are subsequently taken, the employee's attorney claims a violation of free speech. The tactic works all too often. Local administrators and school executives who try to uphold standards or improve schools run a considerable risk of punishment for their

efforts. Employees who are absent excessively, who disrupt school, who insult supervisors, who are incompetent, or whose attitude is belligerent can wrap themselves in a cloak of constitutional protection. Thus, the accuser invariably becomes the accused and those charged are, in some cases, rewarded financially for their poor performance or their unacceptable behavior (Jones, 1986).

If the above mentioned increasing instances of litigation involving the public schools were not enough to substantiate a need for more and more legal counsel for the boards of education and superintendents of schools, there is yet another citation: On August 5, 1986, Congress passed the Handicapped Children's Protection Act (HCPA). This amendment to the Education of the Handicapped Act (EHA) (20 U.S.C. (S) 1400) contains two important modifications. First, the HCPA authorizes courts at their discretion to award attorney's fees to parents who are prevailing parties in proceedings that were pending on or were initiated after July 4, 1984. Second, the HCPA overrules "Smith" and allows wide access to alternative avenues of relief, such as Section 504 or Section 1983 of the Civil Rights Act. Some observers have reacted to these changes by sarcastically dubbing the HCPA the "full employment for attorneys act" (Zirkel, 1987).

The courts have begun to award attorney's fees in new cases and in those covered by the retroactive period of the HCPA. The courts have awarded six-figure attorney's fees in cases that ended in a settlement rather than a judgment. In a case in which a settlement order amounted to less than \$5,000 for the parents, a court granted a fee of more than \$77,000 to their attorneys (Zirkel, 1987).

The emphasis on procedure, on formality, and on confrontation,

rather than on trust, flexibility, and cooperation, reflects Grant Gilmore's classic comment to the effect that in Heaven there is no need for law, while in Hell procedural due process is meticulously observed (Jokes about the absence of attorneys in Heaven are merely a corollary) (Zirkel, 1987).

The Role of the School Attorney

Studies concerning the school attorney's role are relatively limited, with the vast majority being dissertations. These studies normally focus on extent and frequency of legal assistance, the selection and compensation of school attorneys, the scope of legal services and the working relationship between attorneys and school districts (Zollars, Zirkel, and Kemerer, 1986).

Various studies during the past three decades confirm that it is a common practice for school districts to employ outside counsel. A study in 1960 found that a private attorney was employed by most of the Pennsylvania school districts that had chief school administrators. In a study several years later, 1975, it was concluded that the outside attorney was an integral part of the organizational structure in almost all districts in Arkansas. Similarly, it was found that 90 percent of the public school districts in Chicago suburbs employed a private attorney for legal assistance. Recently Zollars (1985) in a statewide study in Texas found that 74 percent of the school districts used a local attorney with half of these districts using this person as their primary source for legal services. The use of full-time inhouse counsel is apparently rare (Zollars, Zirkel, and Kemerer, 1986).

Studies have also found that the size of the district is a significant factor in determining the frequency that a district utilizes the services of an attorney. An early study in 1967 in Michigan found that large school districts appeared to have a greater need for a school attorney than did smaller districts. Similarly, in a study in the western states, in 1967 it was determined that larger school districts were more likely to employ an outside attorney on a continuing basis. In a Missouri study in 1972 it was also found that larger districts tended to employ an attorney on a retainer basis, while smaller districts were more likely to employ attorneys on an ad hoc basis (Zollars, Zirkel, and Kemerer, 1986).

There appears to be a parallel relationship between size of district and amount of money spent on legal fees. Hines (1982) study in Missouri revealed a significant direct relationship between school district size and expenditures for legal services. Similarly, Fever's (1984) study in Illinois determined that there was a definite relationship between the size of school district or type of community where the district was located and the expenditures for legal fees (Zollars, Zirkel, and Kemerer, 1986).

Several studies show that most attorneys are selected by the board and superintendent working together. In a study by White (1981), it was found that 66 percent of the districts in Texas had the board and the superintendent select the school attorney (Zollars, Zirkel, and Kemerer, 1986).

Also, in a nationwide survey in 1974, it was found that more attorneys are employed by board resolution than by any other method. This finding was confirmed by a 1976 study of school attorneys

in the public schools in the suburbs of Chicago (Zollars, Zirkel, and Kemerer, 1986).

A 1956 study in Michigan ascertained that the two most important criteria in the selection of the school attorney were knowledge and cost. In 1980, almost 25 years later, a study also determined that knowledge of school law was the preeminent criterion (Zollars, Zirkel, and Kemerer, 1986).

Until the early part of the 1970's the majority of school districts favored the retainer method for compensating school attorneys. However, a study in 1974 found that the hourly method was emerging as the preferred method of compensation. Rissmann (1981), in a study of Minnesota school attorneys found that the hourly fee basis was the most frequent method of payment for services rendered. Also, recently, Zollars, Zirkel, and Kemerer (1985), determined that some 64 percent of Texas school districts chose to pay their attorneys by the hour.

The amount of time that attorneys spend on school matters may differ dramatically depending on whether the attorney is required to attend school board meetings. In Indiana, the majority of school attorneys were required to attend all of the board meetings. In Texas, such a practice is common for only the largest districts (Zollars, Zirkel, and Kemerer, 1986).

The studies that have been conducted indicate that the relationship among superintendents, boards of education, and attorneys is generally perceived to be mutually satisfactory. Most attorneys receive direction from the superintendent and board acting together, which they perceived to be a proper practice. On the other hand, the

attorney's functions were typically either not defined or poorly defined. Oral, rather than written, agreements predominated in Missouri between the attorneys and the districts (Zollars, Zirkel, and Kemerer, 1986).

Questions are asked from time to time about what a school attorney can do for the school district. Essentially, the school attorney should provide the school board and the school administration with legal counsel and representation in the daily educational and business affairs of the school district (Bittle, 1986).

Like preventive medicine, preventive law can be less expensive than major surgery or litigation. The major areas in which the school attorney may be involved include constitutional law, torts (negligence, constitutional, or intentional acts of liability), review of contracts, bid specifications, assistance in the preparation of notices, litigation in the courts or before state administrative tribunals, assistance with employee dismissals, local government law (including zoning), labor law and negotiations, copyrights, condemnation, federal law, and dispute settlement negotiations (Bittle, 1986).

The role of the school attorney should be that of legal adviser, not policy maker. The attorney will prepare and render legal opinions on the request of the superintendent, the staff, the board of education, or a member of the board. In rendering advice and in assessing the legality of alternative, the attorney may help the policy making process by defining legal problems. However, it is the administration which recommends and the board which adopts policies of the school district (Bittle, 1986).

Summary

To summarize the findings of the review of the literature regarding the role of the school district attorney, the following points are made.

1. Oklahoma Statutes and Oklahoma School Law clearly and specifically provide that school districts can sue and be sued and are legally responsible for the business pursuits of the district.

2. To aid the districts in carrying out their responsibilities, they have the specific authority to employ attorneys and pay them as they may, to include necessary travel expenses. Private attorneys or law firms are necessary because the Statutes do not call for County or District Attorneys to provide legal service in the normal course of business to the schools. An Attorney General's opinion substantiates this finding.

3. The use of school attorneys is becoming more necessary because the public is more willing to go to court and seek redress to a perceived wrong by the district. This is borne out by the dramatic increase in statistics of the past decade involving litigation.

4. The use of school attorneys is becoming more necessary also because of state and federal legislation that affects routine school business. An example is the new federal statute, the Handicapped Children Protection Act.

5. Empirical studies concerning the school attorney's role in public education have been limited. The findings, however, have been fairly consistent. The use of an attorney, and the amount of compensation paid to the attorney is relevant to the size of the district.

6. Finally, there are those who think the attorney's best service to the district may be keeping the district out of legal difficulties. But, as yet, the empirical studies have not verified the protracted application of preventive law in the public schools.

CHAPTER III

METHODOLOGY

Introduction

The major purpose of this study is to determine the role of the school district attorney by means of a thorough examination of expert-identified aspects of that position. A comparison of the answers of school board presidents and superintendents has been made versus school district attorneys for the same questions which determined if there are any significant differences in the perceptions of the role of the school district attorney between the respondents and in the different sizes of school districts.

Instrumentation

The investigative instrument consisted of two parts: a Background Information Sheet completed by superintendents and attorneys, and the Perception/Expectation Inventory completed by all respondents.

The Perception/Expectation Inventory items are categorized into eight subject areas as follows: district business/communications; board procedures; buildings and grounds; public school-private school contracts; curriculum; finance; personnel; and students.

The 50 decision items are printed in the center of the page and are grouped into subject areas. The frequency response column consisted of the following scale:

5 - School attorney was involved "24 or more" times during the school years of 1986-1987 and 1987-1988.

4 - School attorney was involved "16 to 23 times" during the school years of 1986-1987 and 1987-1988.

3 - School attorney was involved "15 to 8 times" during the school years of 1986-1987 and 1987-1988.

2 - School attorney was involved "7 to 1 times" during the school years of 1986-1987 and 1987-1988.

1 - School attorney was "not involved" during the school years of 1986-1987 and 1987-1988.

The frequency response column is to the LEFT of each item.

A responsibility response column consists of the following scale:

5 - Task/decision was "Entirely" the responsibility of the school attorney.

4 - Task/decision was "Largely" the responsibility of the school attorney.

3 - Task/decision was a "Shared" responsibility of the school attorney and a school official.

2 - Task/decision was "Little" responsibility of the school attorney.

1 - Task/decision was "Not" a responsibility of the school attorney or is "Not Applicable."

The responsibility response column is to the Right of each item. Each respondent was asked to read each item and circle a number in the frequency column and in the Responsibility column. Thus, each item has two responses: one frequency and one responsibility.

The items on each Perception/Expectation Inventory are the same for each respondent's instrument, and only the additional Background Information Sheets are different for the superintendents and the school attorneys.

Validation

These instruments were developed by Stacy Lynn Rissman for her Doctor of Philosophy degree at the University of Minnesota in 1981. In her process of constructing the survey instruments, she conducted interviews in three public school districts with the superintendent, the school board chairman, and the school attorney for each of the districts.

Each respondent was asked to complete a questionnaire and react to it by clarifying items, adding or deleting items, or clarifying directions. Accordingly, the interviews tested generalizations, probed for ambiguities, and generally sought to operationalize areas of interest into a format suitable for a valid questionnaire. The results of the pilot study were used in developing the questionnaire which was then used in a state-wide survey in Minnesota.

A complete draft of the questionnaire was presented to three professors at the University of Minnesota for criticism. Substantial revisions of the questionnaire followed and a revised version was constructed.

Rissmann (1981) solicited an interview with one more superintendent which proved to be helpful in facilitating the revision of one entire section of the Background Information Sheet for Superintendents. This additional interview also helped to evaluate the

adequacy and validity of survey responses.

The instruments have been modified to conform with the current situation in Oklahoma. The question regarding strike closings has been eliminated as well as the entire section regarding desegregation

For this study, the questionnaires, after modification, were mailed to 11 superintendents/principals in Kansas. These administrators were chosen because they are graduates of the Educational Administration department of Oklahoma State University, known to the advisory committee, and would be supportive of the goals and objectives of the study.

Eight of the administrators returned the questionnaires and all of the comments were positive and supportive. Four of the districts listed the names and addresses of the attorney they regularly employed, and these attorneys were sent questionnaires. Two of the attorneys returned the questionnaires completed. There were no additional comments or critique.

Based on these positive responses, it was felt that the survey instruments were adequate and the major survey begun.

Administration of the Instrument

The 147 dependent school districts and 463 independent school districts in Oklahoma were combined and then divided into three groups according to student enrollment size.

The groups were: 1-400 students, 401-1600 students, and 1601 students and larger (1600+).

Additionally, there was one more group, the 26 public vocational-technical training school districts. The vo-tech districts were a

separate category.

It was expected that the number of school districts who regularly used attorneys would be quite small, perhaps only 15 to 20 percent of the total. If an attorney or law firm served more than one school district, only one school district was selected for direct questioning.

When the school districts who use attorneys were identified and their attorneys or law firms also identified, an investigative instrument was sent to those attorneys/law firms and school board presidents.

The Oklahoma State School Attorney's Association preferred that their association president control the mailing of the questionnaires to the membership because they did not want their affiliations with the school districts made public. Therefore, the association president, located in Tulsa, mailed the questionnaires to the attorneys and the attorneys who responded, responded directly to the researcher.

Treatment of the Data

The primary purpose of this study was to compare the expectations of school board presidents and superintendents of the role of the school attorney with the school attorney's perceptions of that role, in order to determine if any differences existed. An analysis of the mean scores of the responses by descriptive statistics was the method used for the treatment of the data in determining if there were any differences.

Since another intent of the study was to provide a description of district practices regarding legal situations and the characteristics of the school attorney in Oklahoma, descriptive statistics were also

used to analyze the data gathered by district as well as by type of response.

Summary

The population of this role study included the school superintendents, school board presidents, and school attorneys of the public school districts in Oklahoma. The school districts were divided by size groups: 1-400 students, 401-1,600 students, and 1,600+ students. Public vocational-technical training school districts were surveyed, but kept as a separate group due to their different educational practices and philosophies and their overlapping geographical boundaries.

The Perception/Expectation Inventory instrument used in this study contained 50 items which were categorized into eight legal subject areas. The response alternatives on this survey instrument were separated into frequency of involvement of the school attorney and amount of responsibility deemed held by the school attorney. Each of these segments had five response alternatives which ranged in numerical scores from one to five with five representing the highest amount of frequency.

Other interpretations and findings in the background information furnished was by the use of descriptive and/or summary statistics.

Findings in this study are meant only to show consequences, or results or suspected relationships between several factors and are not meant to be conclusive evidence of definite patterns of activity. Only general conclusions pertaining to the role of the school attorney should be advanced as a result of this study, and those conclusions

should be cautiously held. Generalization to conditions outside of Oklahoma should be made with caution.

CHAPTER IV

FINDINGS

Introduction

School district attorneys perform a vital role in the operation of school districts in Oklahoma, especially when they are needed. In this regard they are much like firemen, in that if they are not needed we forget about them, but when they are needed we rely entirely on them, and they assume the role of provider to us.

The study of the role and functions of the school district attorney in Oklahoma has not been undertaken previously, therefore, not much information is known about the involvement of the school attorney in the operation of the public school districts in this state. This study then, represents the first major effort to ascertain the details of the type and amounts of involvement of the attorneys in conducting the legal business of Oklahoma's school districts.

This chapter of data findings is divided into seven categories: introduction, descriptive data, background information sheet responses, description of the attorney, perception/expectation inventory responses, overall analysis, and summary. Tables are displayed periodically to aid in presenting the findings.

Descriptive Data

The first source of information needed to examine the role of the school attorney is the school district superintendent. To elicit the superintendents' expectations of the school attorney and to obtain their representative attorneys' names and addresses, each school district superintendent was sent the Background Information Sheet for Superintendents and the Perception/Expectation Inventory questionnaires.

A total of 401 superintendents/principals of dependent schools out of a possible 636 responded, thus 63.1 percent of Oklahoma's superintendents/principals of dependent schools returned completed questionnaires. See Table I.

It was decided to keep the public vocational-technical education schools as a separate category, regardless of their size, because their roles and functions are different from the other public school districts and their geographical district boundaries overlap those of the other public school district boundaries.

However, of the 15 responses from the vo-techs, none were in the small (1-400) category, six were in the middle (401-1600) category and nine were in the large (1600+) category.

The adjusted frequency or percentage of the total public school districts in Oklahoma is reflected in Table II.

Another way of presenting the same information is to show the number and distribution of public school districts in Oklahoma by the type of school district. This distribution is shown in Table III.

The rate of responses by the superintendents/principals of dependent schools is shown, first as a percentage of return by the size

TABLE I
NUMBER OF PUBLIC SCHOOL DISTRICTS IN OKLAHOMA

	<u>School District Enrollment Size</u>			Total
	1-400	401-1600	1600+	
Total Number of Schools	358	193	59	610
Vo-Techs				<u>26</u>
Total Public School Districts				636

TABLE II
DISTRIBUTION OF PUBLIC SCHOOL DISTRICTS IN OKLAHOMA

	Vo-Tech	<u>School District Enrollment Size</u>			Total
		1-400	401-1600	1600+	
Number	26	358	193	59	636
Adjusted Frequency	4.1%	56.3%	30.3%	9.3%	100%

TABLE III
DISTRIBUTION OF PUBLIC SCHOOL DISTRICTS IN OKLAHOMA

	<u>School Districts by Types</u>			<u>Total</u>
	<u>Vo-Tech</u>	<u>Dependent</u>	<u>Independent</u>	
Number	26	147	463	636
Adjusted Frequency	4.1%	23.1%	72.8%	100%

of the districts in Table IV and then as by the type of district in Table V.

The numbers of superintendents of the large (1600+ students) school districts who responded, responded in a percentage consistent with the percentage of their distribution, but the superintendents/principals of dependent schools of the middle size (401-1600 students) school districts exceeded their expected rate of responses in relation to their distribution, while the superintendent/principals of dependent schools of the small (1-400 students) school districts fell short of their expected response rate. The vo-tech districts responded in a percentage consistent with the percentage of their distribution.

In looking at the rate of responses by the superintendents/principals of dependent schools, from another point of reference, the independent school district superintendents' responses exceeded the rate of response that would normally be expected, the vo-tech superintendents responded as could be expected, but the principals of dependent schools failed to meet or exceed their expected response rate. This is probably due in part to the dependent districts indicating a much lower rate of employment of school district attorneys.

A third way to depict the superintendent/principals of dependent school's rate of response is as a percentage of each category. Table VI reflects the rate of response per size of district and Table VII reflects the same information as per type of district.

The correlation in the 401 superintendent/dependent principal responses is that 75 of the 76 dependent schools responding are in the 1-400 student enrollment category. The other one is in the 401-1600

TABLE IV
 NUMBER OF SUPERINTENDENTS/PRINCIPALS OF DEPENDENT
 SCHOOL RESPONSES

	Vo-Tech	<u>School Districts by Size</u>			Total
		1-400	401-1600	1600+	
Number	15	204	144	38	401
Adjusted Frequency	3.7%	50.9%	36.0%	9.4%	100%

TABLE V
 NUMBER OF SUPERINTENDENT/PRINCIPALS OF
 DEPENDENT SCHOOL RESPONSES

	Vo-Tech	<u>School Districts by Types</u>		Total
		Dependent	Independent	
Number	15	76	310	401
Adjusted Frequency	3.7%	19.0%	77.3%	100%

TABLE VI
RATE OF SUPERINTENDENT/PRINCIPALS OF DEPENDENT
SCHOOLS RESPONSES

	Vo-Tech	School Districts by Size			Total
		1-400	401-1600	1600+	
Total Districts	26	358	193	59	636
Responses	15	204	144	38	401
Rate of Response	57.7%	57.0%	74.6%	64.4%	63.1%

TABLE VII
RATE OF SUPERINTENDENT/PRINCIPALS OF DEPENDENT
SCHOOL RESPONSES

	Vo-Tech	School Districts by Type		Total
		Dependent	Independent	
Total Districts	26	147	463	636
Responses	15	76	310	401
Rate of Response	57.7%	51.7%	67.0%	63.1%

student size enrollment category. One hundred and forty-three of the 144 401-1600 enrollment category as well as all of the 38 1600+ size districts are independent schools. Also, 129 of the independent school districts are in the 1-400 size category ($204-75=129$). This distribution is reflected in Table VIII.

Of the 401 superintendents/principals of dependent schools who responded, only 154 or 38.4 percent, provided the name and address of an attorney thus indicating they had a regularly consulted attorney. Table IX reports the provision of school attorney name and address by size of district and Table X will depict the same information by the type of district. Table XI will be a correlation of this same information.

Table XII shows the percentage or rate of response by size of district to the total number of superintendent/principals of dependent schools responses furnishing the name and address of a school attorney (154). Table XIII depicts the same information by type of district.

Tables XII and XIII indicate that almost half of the vo-tech districts that responded provided the name and address of an attorney they have available for consultation. Independent districts provided significantly more names and addresses of attorneys than did the dependent districts, but when further analyzed, the tables depict that the biggest user of attorneys in the independent districts are the larger (1600+) schools with over 84 percent of those providing the names and addresses of attorneys. The 1-400 districts provided the lowest ratio of attorney names and addresses, but the breakdown of the dependent districts show a slightly higher ratio thus indicating that dependent small schools are slightly more likely to provide an

TABLE VIII
DISTRIBUTION OF SCHOOL RESPONSES BY SIZE AND TYPE

	Vo-Tech	1-400	401-1600	1600+	Total
Number	15				15
Dependent		75	1		76
Independent		129	143	38	310
Total	15	204	144	38	401

TABLE IX
PROVISION OF SCHOOL ATTORNEY NAME AND ADDRESS

	Vo-Tech	<u>School District Size</u>			Total
		1-400	401-1600	1600+	
Number	7	53	62	32	154
Adjusted Frequency	4.5%	34.4%	40.3%	20.8%	100%

TABLE X
PROVISION OF SCHOOL ATTORNEY NAME AND ADDRESS

	Vo-Tech	School District Type		Total
		Dependent	Independent	
Number	7	23	124	154
Adjusted Frequency	4.5%	14.9%	80.5%	100%

TABLE XI
DISTRIBUTION OF PROVISION OF SCHOOL ATTORNEY NAME
AND ADDRESS BY SIZE AND TYPE

	Vo-Tech	1-400	401-1600	1600+	Total
Number	7				7
Dependent		22	1		23
Independent		31	61	32	124
Total	7	53	62	32	154

TABLE XII
 RATE OF RESPONSE FOR PROVISION OF SCHOOL ATTORNEY NAME
 AND ADDRESS BY SIZE OF SCHOOL DISTRICT

	Vo-Tech	<u>School District Enrollment</u>			Total
		1-400	401-1600	1600+	
Total Response	15	204	144	38	401
Provision of Attorney	7	53	62	32	154
Rate of Provision of Attorney	46.7%	26.0%	43.1%	84.2%	38.4%

TABLE XIII
 RATE OF RESPONSE FOR PROVISION OF SCHOOL ATTORNEY NAME
 AND ADDRESS BY TYPE OF SCHOOL DISTRICT

	Vo-Tech	<u>School District Type</u>		Total
		Dependent	Independent	
Total Response	15	76	310	401
Provision of Attorney	7	23	124	154
Rate of Provision of Attorney	46.7%	30.3%	40.0%	38.4%

attorney's name and address than are the independent school districts.

After listing all attorney/law firms names, it was found that many of the attorneys represent more than one school district. A law firm in Tulsa represents, either on a regular basis or as necessary, approximately 150 public school districts in the state. Several other attorneys represent more than one school district with multiples of five or more not uncommon and an occasional attorney/law firm representing up to ten school districts.

Consultations with the law firm in Tulsa revealed the existence of an organization of attorney/law firms in the state known as The Oklahoma School District Attorneys Association. One of the attorneys in the Tulsa law firm is the current president of the organization and the organization gave its approval and endorsement to the collection of this information with the provision that the president of the organization control the requests for the information.

Subsequently, the president of the organization advised that he had 65 to 70 members and that his office had mailed the requests for information to them. Twenty-five attorney/law firms responded within the first two weeks, and after a second request from the president, 16 more attorney/law firms responded making a total of 41 attorney/law firm responses. The distribution of these responses is shown in Table XIV.

In categorizing the responses of the attorney/law firms who represented multiple school districts and did not specifically indicate which district they were responding for, the decision was made to have the response be representative of the majority of the types of school districts the attorney or law firm was representing and also to attempt

TABLE XIV
NUMBER OF ATTORNEY/LAW FIRM RESPONSES

	<u>School District Enrollment</u>				Total
	Vo-Tech	1-400	401-1600	1600+	
Number	3	8	16	14	41
Adjusted Frequency	7.7%	20.5%	38.5%	33.3%	100%

to obtain a fair and equal representation of all the school districts.

In deference to the desires of the school attorneys' organization, the information is not available to ascertain what type or size of school districts as represented by the attorneys were solicited thus a rate of response is not discernable.

Table XIV begins with the information and data being depicted by the size of the school district enrollment only. The primary focus of this study is to determine the relationship, if any, between the various sizes of the school districts in Oklahoma in their usage, perception, and expectation of the role of the school district attorney.

Table XV depicts the response of the school board presidents. Due to the multiplicity of representation of school districts by attorney/law firms, 68 representative school districts were selected and their school board presidents solicited to provide a response to the Perception/Expectation Inventory questionnaire.

Vo-tech school board presidents were not solicited because of the small number of named attorneys. The total number of 40 responses by school board presidents represents a 58.8 percent response rate of the 68 school board presidents asked to respond.

Background Information Sheet Responses

School District Information

An overview of the descriptive majority responses and findings pertaining to district practices is shown in Table XVI. The data, displayed by district enrollment size, indicate that: (1) the first source of legal information is the Oklahoma State School Boards

TABLE XV
NUMBER OF SCHOOL BOARD PRESIDENT RESPONSES

	<u>School District Enrollment</u>				Total
	Vo-Tech	1-400	401-1600	1600+	
Number		8	24	8	40
Adjusted Frequency		20.0%	60.0%	20.0%	100%

TABLE XVI
SCHOOL DISTRICT INFORMATION

District Size	1-400	401-1600	1600+
Source of Legal Information	O.S.S.B.A.	O.S.S.B.A.	School Attorney
Consultation of Same Attorney (regardless of issue)	No	Yes	Yes
Employment Process	By Supt. Informal process	By Supt. Informal process	Inherited from relative or law firm
Written Policies	No	No	Yes
Description of Attorney's Functions	Vaguely	Precisely	Vaguely
Source of Direction	Supt.	Supt.	Supt.
Method of Payment	Fee Basis	Fee Basis	Fee Basis
Amount of Money	Less than \$5000.00	Less than \$5000.00	Less than \$5000.00

Association for every size of district except the largest where the school attorney is consulted; (2) regardless of the legal issue, only the smallest districts do not regularly consult the same attorney, (3) the employment process of a school attorney becomes more formal as the district enrollment size increases, (4) the employment is a verbal one in small districts but tends to be written in the larger districts, (5) the majority of the school districts do not have written policies for the attorney, (6) the functions of the attorneys range from being vaguely defined in the small districts to being more precisely defined in the middle sized districts, (7) the superintendent is the principal source of direction for the attorney in all of the districts, (8) there is a range of mixture of payment methods by the districts but most prefer to pay by hourly fees. Those on annual contracts tend to be found only in the large districts, (9) the larger districts tend to spend the most money on attorney services.

Tables with descriptive statistics for each of these sections appear next in this chapter in the same order as presented in Table XVI.

Table XVII, Source of Legal Information, clearly shows that the OSSBA is the primary source of legal information for the small and middle size school districts. This is possibly due to the employment of an attorney by the Oklahoma State School Boards Association, long-time practice, and the lack of funds for many school districts. Over 55 percent of all the superintendents and dependent principals that responded seek, as their initial source of legal information, advice from the Oklahoma State School Boards Association. Only 23 percent consult their school attorney with the largest ratio of representation

TABLE XVII
SOURCE OF LEGAL INFORMATION

	Vo-Tech	1-400	401-1600	1600+	Total
O.S.S.B.A.	8	132	78	17	235
State Department of Education (SDE)1		36	24	7	68
School Attorney	6	20	41	30	97
Other Supt.		7	8	1	16
City/County Atty.		2			2
Other		3	1	2	6
Total	15	200	152	57	424

Material is prepared from responses to Item 11 of the Background Information Sheet for Superintendents questionnaire. Answers total more than 401 due to multiple answers on some responses.

in this area coming from the largest schools.

The State Department of Education is the third largest category as a source of legal information for all the school districts with some 16 percent utilizing this source.

One other significant area is that only two schools attempt to use a city or county attorney as a source of legal information. This correlates to the information in the second chapter that city and county attorneys are not required nor have the time to provide school districts with legal services except in the case of criminal violations.

Table XVIII, Same Attorney Consulted Regardless of Issue, indicates that only 48.5 percent of the time is the same attorney or law firm consulted regardless of the nature of the legal issue addressed. The rest of the time, 51.5 percent, school districts consult attorneys or firms with a special legal expertise.

However, the two larger sizes of districts consult the same attorney 63 percent of the time. Presumably the small districts tend not to use the same attorney because they do not have one employed on a regular basis so they are free to consult whomever they want when a legal problem arises.

Employment Process of School Attorneys

Responses from attorneys to Item 10, Background Information Sheet for Attorneys, were examined, and the information gathered from their comments about the employment process according to district size follows:

1. 1-400 enrollment size: In four of eight responses, the school

TABLE XVIII
SAME ATTORNEY CONSULTED REGARDLESS OF ISSUE

	Vo-Tech	1-400	401-1600	1600-	Total
Not the same Attorney	8	125	56	11	200
Same Attorney Consulted	6	68	81	33	188
Total	14	193	137	44	388

Table XVIII is prepared from responses to Item 4 of the Background Sheet for Superintendents. The total is less than 401 due to a lack of response in some cases.

district superintendent simply contacted an attorney to employ for the district. The County Superintendent hired an attorney, one attorney was hired because of a particular problem in the district, one attorney was hired because he was a personal friend of the superintendent and only one attorney was hired at the direction of the board of education.

2. 400-1600 enrollment size: In six of 16 responses, the superintendent hired an attorney of his choice. Particular problems in the school district accounted for the employment of attorneys in three cases, two attorneys were hired because of referrals, and three attorneys were hired after an interview with the board of education. Two stated they were hired by both the superintendent and the board of education.

3. 1600+ enrollment size: Interestingly enough, of the 13 responses in this category, six of them have their jobs as school district attorney because they inherited it. They took over from their father when he retired or from a senior partner in the law firm when he retired. This method of position acquisition is a good reflection of the fact that the larger districts have employed attorneys much longer than the smaller districts. Also two more attorneys stated they were employed primarily due to employee negotiation agreement issues. Two were hired directly by the superintendent, two through the board interview process and one by a combination of superintendent and board process.

Employment Arrangement

Responses to Item 2, Background Information Sheet for Attorneys, were examined in order to draw several conclusions about the employment

arrangement between the school districts and the school attorneys.

Forty-eight point eight percent (48.8) of the attorneys were employed with a verbal agreement. Only 24.4 percent have a written contract and only 17 percent were hired with a board resolution. Of the other arrangements, one is by a letter of agreement and two are due solely to insurance settlement problems.

It is not surprising to find that nearly half of the school attorneys in Oklahoma are employed through a simple verbal agreement. Because less than ten percent of our public schools are over 1600 in enrollment, that means that approximately 90 percent of our districts are less than 1600 in enrollment and in reality some 56 percent are less than 400 students in enrollment. The smaller districts do not have the funds or need to employ attorneys, thus the issue of formal agreements is not often raised or necessary.

That 24 percent of the attorneys have a written contract ties in neatly with the information in Item 2 of the Background Information Sheet for Superintendents which also reveals that 24 percent of the schools have written policies providing for the employment of a school attorney.

Table XIX details more specific information about attorney employment arrangements. This information is taken from Item 2 of the Background Information Sheet for Attorneys.

Looking at the data we see that nearly half, 48.8 percent, of all attorneys are employed with a verbal agreement and almost one-fourth, 24.4 percent, are employed with a written contract. Of the ten employed with a written contract, four or 40 percent are employed in the largest districts.

TABLE XIX
SCHOOL ATTORNEY EMPLOYMENT ARRANGEMENT

	Vo-Tech	1-400	401-1600	1600+	Total
Written Contracts	2	2	2	4	10
Board Resolution	1	1	3	2	7
Verbal Agreement		5	8	7	20
Other			3	1	4
Total	3	8	16	14	41

Although 11 of the attorneys employed in the two largest category of districts are by board resolution or written contract, still there are 15 in those areas employed by verbal agreement. Though there are more attorneys employed formally in the larger districts than in the small districts, verbal agreements still predominate in the large districts as they do in the small districts.

Table XX details the summary information of districts containing written policies for employment of attorneys by district size. In all cases the lack of written policies for the employment of a school attorney predominates except for the large districts where there is an even split, 50 to 50.

The data shows that the percentage of schools with formal written policies for employment of attorneys are: 1-400 = 23.2 percent; 400-1600 = 23.8 percent; 1600+ = 50 percent; with an overall of 24.6 percent. The two smaller size districts are very similar in ratio but the largest size districts are clearly more formal in their policy of employing school attorneys.

Description of Attorney's Functions

The attorneys were asked to respond how well their functions for their representative districts were defined after employment. Their responses are displayed in Table XXI.

Twenty-five percent of the attorneys representing the smallest districts and the middle range districts indicated their functions were not at all defined. Fifty-three point seven percent of all districts indicated their functions were vaguely defined while over one-third, 36.6 percent, of the attorneys did indicate that their functions were

TABLE XX
WRITTEN POLICIES FOR SCHOOL ATTORNEYS

	Vo-Tech	1-400	401-1600	1600+	Total
Does Not Have Written Policy	9	164	106	22	301
Has Written Policy	5	38	33	22	98
Total	14	202	139	44	399

TABLE XXI
DESCRIPTION OF ATTORNEY'S SCHOOL DISTRICT FUNCTIONS

	Vo-Tech	1-400	401-1600	1600+	Total
Precisely	1		8	6	15
Vaguely	2	6	6	8	22
Not At All		2	2		4
Total	3	8	16	14	41

precisely defined. These statistics seem to indicate that although only about one-fourth of the districts have written policies to employ attorneys, when they do employ them they become precise about how they are to be used.

Source of Direction

About 61 percent of the attorneys responded that the superintendent is the principal source of direction for them. Actually the figure rises to over 85 percent when you consider that another group of attorneys state their principal source of direction is from the school board president and the superintendent jointly. Thus the superintendent figures prominently in the directions given to attorneys in any of the school district's legal business.

The remainder of the responses comprise a mixture including the county superintendent and the dependent principal as the primary source of direction. Table XXII details this response.

One other item of note regarding the source of direction for the attorney, not one of the attorneys mentioned the school board president as the principal source of direction. This information corresponds to the fact that in the section, Delivery of Service, we see that the board president's home or office is never used as the place where legal services are delivered.

Method of Payment

Table XXIII depicting the method of payment to attorneys is prepared from responses to Item 5, Background Information Sheet for Attorneys.

TABLE XXII
SOURCE OF DIRECTION

	Vo-Tech	1-400	401-1600	1600+	Total
Superintendent	2	3	7	13	25
Supt./Bd.Pres.		4	6		10
Board Pres.					0
Other	1	1	3	1	6

TABLE XXIII
METHOD OF PAYMENT

	Vo-Tech	1-400	401-1600	1600+	Total
Annual Contract			1	3	4
Retainer	1	1	1	2	5
Fee Basis	1	5	8	6	20
Other	1	2	6	3	12
Total	3	8	16	14	41

More responses, 48.8 percent, reflect the fee basis method as the preferred method of payment for attorneys. However, this method is used in conjunction with other methods such as retainers and is a large part of the "other" category. When taken in combinations, the fee basis method amounts to about 75 percent of all the payment methods used in Oklahoma.

Amount of Money Spent on Legal
Services, 1987-1988

Table XXIV, Money Spent for Legal Services, 1987-1988, is taken from the responses to Question 9, Background Information Sheet, Superintendents. It was decided to formulate the questions in four specific categories in order to encourage responses. However, there were still some questionnaires returned with out any response in this item, implying that some superintendents consider this to be a sensitive area.

Eighty-Four point eight percent indicated they spent \$5000 or less on legal services for 1987-1988. Ninety-Seven point five percent of the small school districts indicate they spent less than \$5000, while only 84 percent of the middle size school districts are in the less than \$5000 category and just 45.7 percent of the large school districts spent less than \$5000. Clearly the fact is made that larger districts spend more on legal services because only one of the small districts reporting spent over \$10,000 (0.6 percent) while six (4.8 percent) of the middle range districts spent over \$10,000 and 18 or 39.1 percent of the large school districts reporting spent over \$10,000 with the majority of those, 13, spending in excess of \$20,000.

TABLE XXIV
MONEY SPENT FOR LEGAL SERVICES, 1987-1988

	Vo-Tech	1-400	401-1600	1600+	Total
\$5000 or Less	10	159	105	21	295
\$5000 - 10,000	2	3	14	7	26
\$10,000- 20,000		1	4	5	10
\$20,000 +	2		2	13	17
Total	14	163	125	46	348

One other item of interest is why school districts do not hire attorneys on a retainer basis.

Why Attorneys Are Not Hired on A
Retainer Basis

Item 7, Background Information Sheet for Superintendents, asked for responses to why attorneys were not hired on a retainer basis if the school district employed attorney or law firms on the basis of the legal issue to be addressed. Those responses are displayed in Table XXV.

An unexpected response was that "the legal issues at hand require a flexibility of choice for legal assistance" was the reason most cited for not hiring an attorney on a retainer basis, 33.4 percent. The expected response of a lack of school funds available came in second place with 32.8 percent of the responses. However, this reason was 38 percent of the reasons reported in the small districts. It was 30.3 percent of the responses in the middle size districts and only 11.1 percent of the reasons in the large districts.

Reluctance of the school board was third place overall although in the large districts, it ranked last place. Reluctance by the superintendent was generally the least reason why school districts did not hire attorneys on retainer basis. This response suggests that in view of the other items in the study suggesting that the superintendent provides the directions to the school attorneys, that the board of education retains more "behind the scene" control than previously revealed. A reasonable presumption is that the superintendent consults with the board of education prior to employing or seeking advice from

TABLE XXV
 WHY ATTORNEYS ARE NOT HIRED ON A
 RETAINER BASIS

	Vo-Tech	1-400	401-1600	1600+	Total
Requires Flexibility	7	43	42	10	102
Lack of Funds	2	59	37	2	100
Reluctance of the School Board	1	35	28	2	66
Reluctance of the Superintendent	1	17	15	4	37
Total	11	154	122	18	305

an attorney.

Background Information Sheet Responses

Description of the Attorney

An overview of the descriptive majority response findings is shown in Table XXVI. The data, displayed by district enrollment size, indicated that: (1) the attorneys have represented the larger districts longer than they have in the smaller districts; (2) no special course or qualifications were listed for the attorney's educational background other than seminars; (3) the majority of attorneys representing small districts were not residents of those districts; (4) attorneys prefer to use a combination of methods to deliver their services; (5) the location of conferences regarding school matters usually are held in the superintendent's office; and (6) attorneys did not mention any serious conflicts which had arisen because the organizational communication structure was not defined.

Tables depicting each of these areas appear next in this chapter in the same order as presented in Table XXVI.

Attorneys' Years of Service

Responses from attorneys to Item 1, Background Information Sheet, School Attorneys (See Appendix B) revealed the length of time school attorneys have been employed by their representative school districts.

For the vo-tech districts, there were only three responses to this question and the total years was 38 for a mean of 12.7 years.

In the small, 1-400, districts, the range of responses was from two years to 20 years. All but one were ten years or less. The mean for this group is 7.6 years.

TABLE XXVI
DESCRIPTION OF THE ATTORNEY

	Vo-Tech	1-400	401-1600	1600+	Total
Mean Years of Service	12.7	7.6	11.6	16.3	12.3
Educational Background and Qualifications	Regular attendance at education law seminars				
Resident of District	Yes	No	No	Yes	No
Mean Mileage to Representative Dist.	8	25.7	32.4	3.2	21.8
Delivery of Service	Telephone- A Combination of Services was Preferred for the rest of the districts				
Location of Conferences	The Superintendent's Office is preferred for all.				
Conflicts	None	None	None	None	None

The range for the middle size group, 401-1600, districts are from one year to 25 years. Nine responses were ten years or longer and only five responses for less than ten years. The mean for this group is 11.6 years.

In the largest districts, 1600+, the range was from one to 40 years. Four of the responses were 33 years and longer. Five were less than ten years, and the mean was 16.3 years.

Educational Background and Qualifications

Responses for Item 11, Background Information Sheet for Attorneys were examined and the following information was obtained about the qualifications of these attorneys. (Determination of the sex of the attorneys was not attempted.)

1. Vo-Techs: One of the respondents had been a school board member, one had been a city and/or county attorney and the other attends educational law seminars when possible.

2. 1-400 enrollment size: One of the attorneys was a public school teacher for five years, one has been a school board member, one attends educational law seminars, and three others get educational law experience through on-the-job training.

3. 401-1600 enrollment size: One attorney respondent has been a public school teacher, one has been an assistant district attorney, one has been a local or district judge, one has taken courses on school law, one feels qualified through on-the-job training and six others attend all the educational law seminars they can.

4. 1600+ enrollment size: One of the respondents has been a school board member, one was a public school teacher for seven years,

one has been a member of the state legislature, one has 12 college hours in educational law, and five attend educational law seminars.

There is a good mixture of qualifications in the group of attorneys as a whole. Six of the 30 respondents (20 percent) have direct educational experiences, either as a teacher or as a school board member. Four others have held public offices either requiring a legal background or where legal training was highly desirable. Altogether, ten or one-third, of the respondents appear to be especially qualified or experienced to be a school district attorney. However, of the remaining attorney respondents, two have specialized educational law training and most of the rest have attended or plan to attend educational law seminars.

Resident of District/Mileage to
Representative District

Information was obtained from Item 8, Background Information Sheet for Superintendents, to see if employed Oklahoma school attorneys were residents of their representative school districts.

In the case of those responses where the attorney represented more than one district, a representative district was selected based on where the attorney might spend most of his time and effort to determine mileage.

In all of the districts enrollment size categories, the majority of attorneys stated they reside within their representative districts except for the small (1-400) districts. In the small districts, only 6.3 percent state that the attorney resided in the district. The middle size districts report that 31.1 percent reside inside their

district boundaries, but the large districts report that over 71 percent of the attorneys live in their area. Of the vo-techs that reported, 57 percent state their attorneys live in their districts. Overall, only 51 of 151, or 33.7 percent, of the attorneys live in their representative districts. (Three districts did not provide an answer.)

Information from Item 6, Background Information Sheet for School Attorneys, contrasts with this information. Twenty-five percent of the attorneys representing small school districts state their office is located within that representative school district, while nearly 69 percent of the middle size school districts make that claim, and about 85 percent of the attorneys representing the large districts claim to office within their school district.

The small districts (1-400) and the large districts (1600+) agree in principal with the attorneys, in that the majority live outside the district (small districts) or inside the district (large districts). Possible answers for the apparent discrepancy in the case of the middle districts (401-1600) are that the superintendents were asked where the attorney "resided" while the attorney was asked where his "office" was located, the superintendents may not have known for sure where the attorney lived, or the researcher made an erroneous assumption in those cases where the attorney reported representing multiple districts.

Item 7, Background Information Sheet for School Attorneys, provides the data for mileage from the attorney's office to their representative school districts. For vo-techs, the three responses totaled 24 miles for a mean of eight miles. For the small districts (1-400), the mileage ranged from less than one mile to 80 miles. The

mean was 25.7 miles.

In the middle size districts (401-1600), the mileage ranged from zero to 200 miles. The mean distance reported was 32.4 miles. The large districts (1600+) range from less than one mile to a maximum of 15 miles. All but one response was five miles or less, only one was over five miles. The mean was 3.2 miles. The overall mean for all the districts was 21.8 miles.

The mileage figures correlate well with other information in the study, such as where the attorney resides, how much money the various sizes of school district spend for legal services and where the attorney services are delivered. All of this information verifies that the smaller districts do not use legal services as much as the larger districts do. In Oklahoma, the smaller districts are predominantly rural and scattered and there are relative few large urban areas and cities. Presumably, the majority of attorneys live in the larger urban areas and cities and must drive to provide services to the small rural school districts. A case in point is the one law firm in Tulsa, one of Oklahoma's two major cities, that services some 150 school districts in regard to various legal matters. Most of these districts are the smaller, outlying rural schools.

Delivery of Service

As the distance between the school attorney's office and the representative school district may affect the attorney's delivery of services, attorneys were questioned in Item 8 on the Background Information Sheet for School Attorneys about their method of delivery of service.

The attorneys generally refused to mark only one best answer to this item, preferring instead to mark a combination of answers. Only the attorneys for the vo-tech districts stated they preferred to use the telephone to deliver their services. Four of five, 80 percent, of the attorneys representing the small districts (1-400) use a combination of methods, telephone, letter/memo, and personal visit, while 15 of 16 or 94 percent, of the middle range districts (401-1600) attorneys preferred these combinations of methods as did six of 12, 50 percent, of the large district (1600+) attorneys. Overall, 27 of 41 or 66 percent, preferred to use a combination of methods to deliver their services.

Item 9, Background Information Sheet for School Attorneys, asked for information regarding where personal conferences concerning school matters are generally held. Overall, 16 of 37 responses, 43 percent, state the conferences are held in the superintendent's office. Nine (24 percent) are held in the attorney's office, and none are held in the board president's office or residence. One was in the dependent principal's office, one was in a county superintendent's office, and the rest were marked as combination of the attorney or superintendents' offices.

Conflicts

Attorneys were asked on the Background Information Sheet for Attorneys, Item 12, to identify any conflicts that had developed with their representative school districts. In all of the school districts, the attorneys generally reported, "no conflicts." There was one report that a problem had arisen due to a conflict between a board member and

the superintendent.

Perception/Expectation Inventory:

Initial Overview

Initial Overview

The Perception/Expectation Inventory was answered by three groups of respondents: superintendents/principals of dependent schools, school district attorneys, and school board presidents. These responses were also classified into the three sizes of school districts: 1-400 (small); 401-1600 (medium), and 1600+ (large). A mean score was determined for each of the eight areas of the questionnaire and a ranking determined by each of the positions of the respondents and by the size of the school districts. These rankings are depicted on the following four tables and illustrate the role of the attorney in the schools' business as perceived by each of the categories of respondents. A ranking of "1" in these tables means the most involved or hold the most responsibility. A ranking of "8" means the least involved or least responsibility.

The tables of rank order of mean scores were derived from the table of mean scores found in Appendix D.

Table XXVII, Rank Order of Mean Scores by Position of Respondent, depicts the frequency of involvement as determined by the superintendents, attorneys, and school board presidents. All three positional groups perceive the school attorney as being most frequently involved in board procedures. These procedures include: prepares meeting agenda, receives a copy of board meeting agenda, attends local board meetings, reviews copy of board minutes, and reviews all policy

TABLE XXVII
 RANK ORDER OF MEAN SCORES BY SIZE OF SCHOOL DISTRICT -
 FREQUENCY OF INVOLVEMENT

	1-400	401-1600	1600+
B. Board Procedures	1	1	1
H. Students	5	2	2
C. Buildings and Grounds	2	4	3
A. District Business/Communications	3	3	4
G. Personnel	4	5	5
E. Curriculum	7	7	6
F. Finance	6	6	7
D. Public School-Private School Contracts	8	8	8

statements.

The superintendent and the attorney perceive the next major area of involvement as the Student area. This area includes: handles injury claims, advises on payment of student fees, advises on dress code issues, advises on search and seizure procedures, advises on confidentiality of student records, and reviews all district due process hearing procedures.

The school board presidents place the Student area in third place and they place the Buildings Grounds area in second place. This area includes: assists in land/building selection, assists in land site acquisition, prepares all contracts for sale or lease of district property, handles all claims of damage to district property, advises before permanent building closes, and advises on issues of building accessibility.

There is a moderate difference in agreement between the perceived order of importance for the next two or three items, but the three occupational groups essentially agree for the least three places of involvement of the school attorney. They in essence agree that Finance, Curriculum, and Public School-Private School Contracts are sixth, seventh, and eighth place in that order.

Table XXVIII, Rank Order of Mean Scores by Position of Respondent, depicts the amount of responsibility deemed held by the school attorney in the various areas of school business by the three positional groups.

The superintendents and attorneys agree that the attorney holds the most responsibility when dealing with the Personnel issues. These issues are: advises procedures for affirmative action compliance,

TABLE XXVIII
 RANK ORDER OF MEAN SCORES BY SIZE OF SCHOOL DISTRICT -
 AMOUNT OF RESPONSIBILITY

	1-400	401-1600	1600+
H. Students	2	1	1
C. Buildings and Grounds	3	3	2
G. Personnel	1	2	3
B. Board Procedures	4	4	4
A. District Business/Communications	5	5	5
F. Finance	6	6	6
E. Curriculum	7	7	7
D. Public School-Private School Contracts	8	8	8

takes part in collective bargaining negotiations, writes the master agreement for the school board, takes part in employee dismissal hearings and procedures, assists in due process grievance procedures filed by employees, writes employee job application forms, handles workman's compensation claims, and advises on the confidentiality of staff and employee records.

The school board presidents hold the attorney most responsible for Student procedures and ranks the Personnel area in fourth place behind Board Procedures and the Building and Grounds area as well. The students area is placed second by both the superintendents and attorneys, with both also agreeing that the Buildings and Grounds area is the third major area of responsibility for the school attorney.

The next two tables, Tables XXIX and XXX, detail the differences in the perceptions of the small, medium, and large size school districts as to their perceptions of the role of the attorney in their districts.

Table XXIX, describing the frequency of involvement of the attorney, shows that all three size districts agree that the attorney is most often involved in Board Procedures area. The medium and large size districts state that the attorney is next most involved in Student business, while the small school rank that area in fifth place. The small schools say that the attorneys are next most involved in Buildings and Grounds business. Again, the next few areas contain a moderate amount of disagreement among the districts in matters of importance for the attorney, but all three essentially agree that Curriculum, Finance, and Public-School-Private-School Contracts area are sixth, seventh, and eighth in importance to the attorney.

TABLE XXIX
 RANK ORDER OF MEAN SCORE BY POSITION OF RESPONDENT -
 FREQUENCY OF INVOLVEMENT

	Supt.	Attorney	SB President
B. Board Procedures	1	1	1
H. Students	2	2	3
C. Buildings and Grounds	3	5	2
A. District Business/Communications	4	3	5
G. Personnel	5	4	4
F. Finance	6	7	6
E. Curriculum	7	6	7
D. Public School-Private School Contracts	8	8	8

In Table XXX, we see how the school districts perceive the amount of responsibility held by the attorney. Both the medium and large size schools see the school attorney as being most responsible in the area of Student involvement. The small schools place the Personnel area in first place of importance for attorneys, while they hold the Students area in the second most important position for the attorney. Some differences are evidenced by the various categories of school districts in the table for the first three positions, but this table depicts overall, the most agreement of all the tables. The last five areas of school business are ranked in the same order by all three of the sizes of districts. All agree that Board Procedures, District Business/Communications, Finance, Curriculum, and Public School-Private School Contracts areas are fourth, fifth, sixth, seventh, and eighth places, respectively.

As an overall summary of the importance of attorneys in these various areas of involvement, we see that:

1. For frequency of involvement, the Board Procedures area rank in first place six times, of six possibilities. All three sizes of school districts and all three position of respondents ranked this item first. The students area ranked in second place four times of six and the Buildings and Grounds area, District Business/Communications, and Personnel areas fluctuated among the respondents for third, fourth, and fifth places, but all essentially agreed that the Finance, Curriculum, and Public School-Private School Contracts areas were sixth, seventh, and eighth places, respectively.

2. For amount of responsibility, Personnel and Students area were even at three first places each. The students area also ranked second

TABLE XXX
 RANK ORDER OF MEAN SCORES BY POSITION OF RESPONDENT -
 AMOUNT OF RESPONSIBILITY

	Supt.	Attorney	SB President
G. Personnel	1	1	4
H. Students	2	2	1
C. Buildings and Grounds	3	3	3
A. District Business/Communications	4	5	5
B. Board Procedures	5	4	2
F. Finance	6	6	6
E. Curriculum	7	7	7
D. Public School-Private School Contracts	8	8	8

place three times out of six, while the Buildings and Grounds, Personnel, and Board Procedures areas shared the other three second places. However, the last four placings were nearly unanimous. The District Business/Communications area received five of six fifth places, while the Finance, Curriculum, and Public School-Private School Contracts areas unanimously received sixth, seventh, and eighth places in the rankings.

Therefore, it can be shown that the role of the school attorney is perceived to be most frequently involved in the Board Procedures and Students areas, with the Finance, Curriculum, and Public School-Private-School Contracts areas being the areas of least amount of involvement.

It can also be shown that the role of the school attorney is perceived to be held most responsible for the areas of Personnel and Students, with the District Business/Communications, Finance, Curriculum and Public School-Private School Contracts area being the areas of least responsibility.

Responses

The Perception/Expectation Inventory formed a major portion of the study and was the only questionnaire that all three different positional respondents received for completion. The questionnaires for the three positional groups (superintendents, attorneys, and school board presidents) were identical.

Due to the non-disclosure process preferred by the Oklahoma State School Attorney's Association, a matched set of respondents, that is, comparing the superintendent, the attorney, and the school board

president's responses of the same school district, were not attempted. However, it seems enough for the purposes of this study that the responses are categorized as to the enrollment sizes of the school districts. This permits an analysis to be made comparing the means of each of the three sizes of the school districts. The analysis enabled us to determine the answers to such questions as: Is there a difference in the way larger school districts perceive the use of school attorneys? As the large school attorneys more involved in the business of the districts than the small school attorneys? And, how are the perceptions of the respondents affected by the size of their school districts?

The data was analyzed with descriptive statistics since the total public school district population of Oklahoma was surveyed and the sampling technique was not utilized. The data establishes the existence of differences between the perceptions of the various groups about the role of the school attorney. Because the maximum range of the scores was from one to five, the means of the scores are similar, or homogeneous and have low variability.

Low variability is a way of saying that there is not a wide variance of individual group scores from the mean (average) score on the item or area under discussion. The standard deviation (SD) is frequently less than 1.0. Standard deviation is a method of expressing the amount of variability in the scores of the group. The larger the number for SD, the wider the variety of scores on that item. Conversely, the smaller the figure for SD, the closer all the scores were to the mean score for that item.

The tables that follow present the means and standard deviations

for each of the areas of school business and the respondents as well as the total of all the respondents. The table for the total number of respondents is used for comparison. In these tables of means, the higher the score, the more that group of respondents perceived the school attorney was involved in or held responsible for that area of school business.

Table XXXI depicts the 194 respondents by position and size of school.

Table XXXII displays the mean scores and standard deviations for each of the areas of school business on the Perception/Expectation Inventory questionnaire. A total of 194 respondents returned this questionnaire. A mean score was determined for each of the 50 items. The items were grouped to distinguish each area of school business and a mean score for each of these areas was then ascertained.

The mean scores in Table XXXIII indicate that for the 194 respondents as a whole, the school attorneys are most frequently involved in the areas of Board Procedures and Students. However, the school attorneys are deemed to be most responsible in the areas of Personnel and Students.

Table XXXIV displays the mean scores of each group of respondents by the size of the school districts they represent. The mean scores are summed and displayed for easier reference in Table XXXIV. These sums establish that the superintendents of the large schools perceive the attorneys to be involved in school business to a larger degree than anyone else in the study. Correspondingly, the superintendents of the large schools perceive the attorneys hold the most responsibility in school business, with the attorneys of the large schools second in

TABLE XXXI
PERCEPTION/EXPECTATION INVENTORY RESPONDENTS

Position	Size of School District	Number
Attorneys	Small (1-400)	8
Attorneys	Medium (401-1600)	16
Attorneys	Large (1600+)	14
School Board Presidents	Small (1-400)	8
School Board Presidents	Medium (401-1600)	24
School Board Presidents	Large (1600+)	8
Superintendents/Principals	Small (1-400)	35
Superintendents/Principals	Medium (401-1600)	50
Superintendents/Principals	Large (1600+)	31
<u>Total</u>		<u>194</u>

TABLE XXXII
 PERCEPTION/EXPECTATION INVENTORY SCORES OF
 ALL (194) RESPONDENTS

Area	Frequency		Responsibility	
	Mean	SD	Mean	SD
District/Business Comm.	1.6793	0.7447	1.9350	0.8840
Board Procedures	1.9938	1.0897	1.9907	1.0415
Buildings/Grounds	1.6847	0.8389	2.1829	0.9782
Public School-Private School	1.1890	0.6227	1.3711	0.7465
Curriculum	1.3298	0.5787	1.5051	0.6856
Finance	1.3994	0.8352	1.7422	1.1165
Personnel	1.6192	0.7553	2.3067	0.5821
Students	1.7070	0.8548	2.2929	0.9267

TABLE XXXIII
 PERCEPTION/EXPECTATION INVENTORY MEAN SCORES
 BY POSITION AND SCHOOL DISTRICT SIZE

Area	Frequency	Responsibility
<u>Attorneys-Small Schools</u>		
District/Business Communications	1.9500	2.3250
Board Procedures	2.1750	2.0500
Buildings/Grounds	1.7083	1.9166
Public School-Private School Contracts	1.5208	1.6250
Curriculum	1.6562	1.6875
Finance	1.5625	1.6250
Personnel	1.6875	2.3906
Students	1.8958	2.1666
<u>Attorneys-Medium Schools</u>		
District/Business Communications	1.6500	1.9125
Board Procedures	1.9500	2.0875
Buildings/Grounds	1.6770	2.2708
Public School-Private School Contracts	1.0833	1.2500
Curriculum	1.1093	1.2500
Finance	1.3125	1.9687
Personnel	1.5625	2.4687
Students	1.6562	2.3854
<u>Attorneys-Large Schools</u>		
District/Business Communications	2.0285	2.2428
Board Procedures	2.5857	2.2827
Buildings/Grounds	1.6309	2.2023
Public School-Private School Contracts	1.3690	1.6071
Curriculum	1.5892	1.6428
Finance	1.2857	1.6428
Personnel	1.7946	2.3482
Students	2.1904	2.4404
<u>Superintendents-Small Schools</u>		
District/Business Communications	1.3428	1.4342
Board Procedures	1.3371	1.5257
Buildings/Grounds	1.3238	1.6619
Public School-Private School Contracts	1.0285	1.1428
Curriculum	1.0928	1.2714
Finance	1.2571	1.4428
Personnel	1.3071	2.1571
Students	1.2095	1.7523

TABLE XXXIII (Continued)

Area	Frequency	Responsibility
<u>Superintendents-Medium Schools</u>		
District/Business Communications	1.7640	2.0600
Board Procedures	1.7760	1.9160
Buildings/Grounds	1.6333	2.2600
Public School-Private School Contracts	1.1466	1.3666
Curriculum	1.3200	1.5650
Finance	1.4600	1.7500
Personnel	1.6650	2.3375
Students	1.7733	2.4033
<u>Superintendents-Large Schools</u>		
District/Business Communications	1.8580	2.2064
Board Procedures	2.4516	2.4516
Buildings/Grounds	2.1129	2.7311
Public School-Private School Contracts	1.5161	1.7473
Curriculum	1.6370	1.8306
Finance	1.5806	2.2096
Personnel	1.8870	2.6169
Students	2.0591	2.6344
<u>School Board Presidents-Small Schools</u>		
District/Business Communications	1.0500	1.0500
Board Procedures	1.2000	1.3000
Buildings/Grounds	1.5833	1.5833
Public School-Private School Contracts	1.0000	1.0000
Curriculum	1.0625	1.0625
Finance	1.0000	1.0000
Personnel	1.0937	1.9218
Students	1.0416	1.2500
<u>School Board Presidents-Medium Schools</u>		
District/Business Communications	1.6083	1.9833
Board Procedures	2.4666	2.4833
Buildings/Grounds	1.8194	2.2500
Public School-Private School Contracts	1.0277	1.2500
Curriculum	1.1770	1.3958
Finance	1.4583	1.8333
Personnel	1.8020	2.1406
Students	1.7916	2.6111

TABLE XXXIII (Continued)

Area	Frequency	Responsibility
<u>School Board Presidents-Large Schools</u>		
District/Business Communications	1.9500	2.1500
Board Procedures	2.7000	1.9500
Buildings/Grounds	1.7083	2.3125
Public School-Private School Contracts	1.1250	1.2500
Curriculum	1.6250	1.7500
Finance	1.3750	1.5000
Personnel	1.3750	1.9687
Students	1.5833	2.4166

TABLE XXXIV
 SUMS OF THE MEAN SCORES BY POSITION
 AND SCHOOL DISTRICT SIZE

Position and School District Size	Frequency	Responsibility
Attorneys-Small Schools	14.1561	15.7863
Attorneys-Medium Schools	12.0008	15.5936
Attorneys-Large Schools	14.4740	16.3791
Superintendents-Small Schools	9.8987	12.3882
Superintendents-Medium Schools	12.5382	15.6584
Superintendents-Large Schools	15.1023	18.4279
School Board Presidents-Small Schools	9.0311	10.1676
School Board Presidents-Medium Schools	13.1499	13.6974
School Board Presidents-Large Schools	13.4416	15.2978

agreement to them. Table XXXV displays this information in rank order to aid in establishing the relationships between the groups of respondents in their perception of the role of the attorney.

The information displayed in Table XXXV shows that the attorneys and superintendents of the large school districts see the role of the attorney being more frequently involved and more responsible than do the other school districts or positions. Also, interesting is that the positions perceiving the role of the attorney as least involved in terms of frequency of involvement and in amount of responsibility held are positions from the small schools. The positions from the medium schools in general see the amount of involvement of the school attorney in the middle range, between the large and the small schools.

In general terms, the information in this table shows that the larger school perceive the role of the attorney as being most involved, the medium schools perceiving the attorney as being moderately involved, and the small schools perceiving the attorney as being the least involved.

Because the statistical data is similar with not much variance, it requires a close analysis to determine if there is any real differences in the sums of the perceptions of the different respondents. With the range of scores of the superintendents, from 15.1093 for the large schools to 12.5382 for the medium schools and 9.8987 for the small schools in terms of frequency, it seems apparent there is a real difference between the perceptions of the small school and large school superintendents of the role of the school attorney.

The same reasoning would hold true of the amount of responsibility

TABLE XXXV
 RANK ORDER OF THE SUMS OF THE MEAN SCORES
 BY POSITION AND SCHOOL DISTRICT SIZE

Position and School District Size	Frequency	Responsibility
Superintendents-Large Schools	15.1093	18.4297
Attorneys-Large Schools	14.4740	16.3791
Attorneys-Small Schools	14.1561	15.7863
School Board Presidents-Large Schools	13.4416	
Superintendents-Medium Schools		15.6584
School Board Presidents-Medium Schools	13.1499	
Superintendents-Medium Schools	12.5382	
Attorneys-Medium Schools	12.0008	15.5936
Superintendents-Small Schools	9.8987	
School Board Presidents-Large Schools		15.2978
School Board Presidents-Small Schools	9.0311	
School Board Presidents-Medium Schools		13.6974
Superintendents-Small Schools		12.3882
School Board Presidents-Small Schools		10.1676

deemed to be held by the attorneys by the superintendents: The scores range from 18.4297 for the large school superintendents, to 15.6584 for the medium school superintendents to 12.3882 for the small school superintendents. The difference between the large and small school superintendents scores is a considerable difference.

The attorney's scores are: large schools, 14.4740, medium schools, 12.0008, and small schools, 14.1561 for frequency of involvement. There seems to be no considerable differences in any of these scores. The scores for the perception of frequency of involvement by the attorney by the school board presidents are: large schools, 13.4416, medium schools, 12.1499, and small schools, 9.0311. This would indicate a considerable difference between the school board presidents of the small schools and the other two groups. There would not be any considerable or real differences between the two larger groups.

In consideration of the amount of responsibility perceived to be held by the attorney in school business, the attorney's perceptions are: large schools, 16.3791, medium schools, 15.5936, and small schools, 15.7863. Obviously there is only slight difference. Finally, continuing the investigation of the perceptions of the amount of responsibility held by the attorney, the school board presidents' perceptions are: large schools, 15.2978, medium schools, 13.6974, and small schools, 10.1676. It is apparent there is a considerable difference between the scores of the small school board presidents and the large school board presidents. It is not apparent that there would be any true significance between any other combinations of these three scores.

As a summary of the analysis of Table XXXV, it appears there are

considerable differences between the scores of large and small school superintendents regarding their perceptions of the role of the school attorney in both the frequency of his involvement and the amount of responsibility he holds. Also, there are differences in the scores of the large and small school board presidents regarding the role of the school attorney in frequency and responsibility of involvement. There seems to be no real difference in the scores of the attorneys in either area of involvement.

Summary

The data in this chapter depict the extent of usage of attorneys by the public schools of Oklahoma. A perception of the role the school attorney plays in the business of the public schools is made and reflections of relationships between the size of the school districts and the positions of the respondents are stated or inferred. These relationships are discussed and summarized in Chapter V in addition to suggestions for further research.

CHAPTER V

SUMMARY, CONCLUSIONS, AND RECOMMENDATIONS

Introduction

The final chapter of this study is divided into seven sections. The problem, the review of the literature, the design of this study, and the findings are summarized in the first four sections. The conclusions draw, the educational implications, and recommendations for further study are reported in the final three sections.

The Problem

The purpose of this study was to conduct an analysis of the role of the school attorney in Oklahoma by comparing the superintendents' and board presidents' expectations with the school attorneys' perceptions of the attorney's role during the school years of 1986-87 and 1987-88. The major research questions were: (1) What is the role of the school attorney in the decision-making process in school districts in Oklahoma? (2) Does the school attorney's role differ depending on the size of the school district?

The study identified eight subject areas of attorney service, investigated the school attorney's frequency of involvement in each area, and sought to determine the amount of responsibility the school attorney held in each area. Factors such as amount of money spent for legal services, employment process of attorneys, attorneys' educational

background and qualifications, number of years the attorney has represented the district, residency of the representative attorney, method of pay, method for delivery of legal service, districts' first source of legal advice, and communication process between the attorney and district were examined as well.

Review of Selected Literature

The review of literature focused on the role of the school attorney and an examination of state statutes and case law pertaining to the employment of a private attorney by a public school district. The review was limited to the literature pertaining to the legal foundation of employing an attorney, literature pertaining to the need for a school attorney, and literature pertaining to the role of a school attorney.

Legal Foundation

A review of the literature pertaining to the legal foundation for employment of an attorney by a school district can be summarized by the following general statements:

1. Oklahoma Statutes, Oklahoma School Law, and Oklahoma Attorney General Opinions have all addressed the subject of the powers of local school boards of education to employ representative attorneys with approval of such an action.
2. Oklahoma Statutes, Oklahoma School Law, and Oklahoma Attorney General Opinions have all addressed the manner of compensation from public funds for the representative attorneys and have proscribed compensable actions without limiting the manner of payment.

3. Elected or appointed legal officers such as City, County, or District Attorneys are not required nor impelled to provide legal services for the day-to-day operations of a public school enterprise.

The Need for a School Attorney

In a review of the literature pertaining to the issue of the need for a school attorney, several generalizations can be made:

1. The public is more willing to go to court to sue the school district when they think the district has wronged them. This is borne out by the dramatic increase in litigation of the past decade.
2. New federal and state legislation regarding the education process is more and more complicated and causes the school districts to seek legal opinions on how to implement the new regulations and how to protect themselves from any unintended misapplication of the new regulations.

The Role of the School Attorney

A summary of this review includes the following:

1. Many types of behaviors or expectations of a school attorney have been listed by writers and several studies of the role of the school attorney has been undertaken.
2. There are some writers who think the attorney's best service to the school district is to practice preventative law and keep the district out of court.

Design of the Study

The purpose of the study was to determine the role of the school attorney in Oklahoma. To accomplish that purpose, the school districts were classified in one of three classifications, according to enrollment size, 1-400 students; 401-1600 students; and more than 1600 students. Superintendents, school board presidents, and school

attorneys were asked to furnish information about themselves and their school district and all were asked to respond to a Perception/Expectation Inventory survey.

All information obtained was sorted by the size of the school district, and by the position of the respondent.

The research instruments utilized were: two different background information sheets, one of which was completed by the school superintendents or principals of dependent schools, and one of which was completed by the employed attorney. A final instrument, the Perception/Expectation Inventory was completed by all three positions in an identical manner. The respondents were asked to indicate their perceptions or expectations of the level or amount of frequency and responsibility held by the school attorney in eight areas of school district interests. Descriptive statistics were used to analyze the data.

As previously mentioned in this study, there are several delimitations that must be recognized. This study does not attempt to analyze the school district attorney's effectiveness, predict the role of a school district attorney, nor evaluate the role of an attorney who represents a private school. Only Oklahoma school districts were involved.

Finally, there are many limitations inherent in the questionnaire method of research as used here, especially the fact that many items called for an expression of an opinion, rather than a statement of fact. Findings based on opinion are inherently limited by the candor and willingness of the respondents.

Report of the Findings

The list of the 15 questions to be asked by this study is shown in Chapter I. Those questions have all been answered and the answers are summarized as follows:

Question One - How many public school districts in Oklahoma employ a school district attorney on a continuing basis?

The summary statistics table prepared from the superintendents' responses revealed that, out of a total of 401 completed questionnaires, only 154 or 38.4 percent of the school districts in Oklahoma employ a school attorney on a continuing basis. Thus, less than two-fifths of the school districts in Oklahoma employed an attorney or law firm on a continuing basis during the school years of 1986-87 and 1987-88.

Question Two - What kinds of legal advice is the school district attorney asked to provide?

Examination of the summary of respondents' mean scores by legal subject area shows that attorneys have a greater frequency of involvement in these two areas: board procedures and student involvement.

Examinations of the summary of total responsibility mean score shows that attorneys have more responsibility in the areas of personnel and students.

Question Three - How does the school district attorney participate in the decision-making process as expected by the school board president?

Question Four - How does the school district attorney participate in the decision-making process as expected by the superintendent?

Question Five - What is the degree of similarity or difference in the role of the school district attorney as compared with how that role is seen by the school board president, the superintendent, and by the attorney?

Examination of the Perception/Expectation Inventory Mean Scores by position (Appendix D), disclosed that the total of the mean scores for frequency of involvement in all areas for school attorneys was 13.3651 by the school attorney, 12.4269 by the superintendents and 12.3853 by the school board presidents. This indicated that the attorneys participated about as much as the school board presidents expected.

The amount of responsibility the attorney holds was ranked at a moderate level by the superintendents and was held to be lowest by the school board presidents. The total of the mean scores for amount of responsibility was 15.9356 by the school attorneys, 15.3565 by the superintendents, and 14.6616 by the school board presidents.

Overall, the attorneys see themselves as more involved in the areas of school business than do the superintendents and school board presidents. The superintendents see a moderate role by the attorney and the school board presidents hold the least involved view of the role of the attorney.

Question Six - What is the degree of similarity or difference in the role of the school district attorney among school districts of various enrollment sizes?

It was found that attorneys in the largest school districts possess a greater frequency of involvement and the largest amount of responsibility. Correspondingly, the attorney representing the smallest school districts has a smaller frequency of involvement and holds a smaller amount of responsibility in comparison to the larger districts. (See Appendix D for mean scores by size of school

districts).

Question Seven - What is the degree of similarity or difference in the method of payment for legal services among school districts in the State of Oklahoma with various enrollment sizes?

The hourly fee basis is the preferred method of payment for legal services by all school districts in Oklahoma. Payment by annual contract is the least favored method. A combination of methods, particularly a retainer fee coupled with an hourly fee appear to be popular in Oklahoma.

Question Eight - Is there a relationship between the method of payment and the attorney's role?

There seems to be a strong similarity between the attorney's method of payment and his perceived role. The attorney's role is determined to be more necessary in the largest school districts where the districts also pay the attorneys not only an hourly fee or on a retainer basis, but also frequently by an annual contract.

In the smaller districts, where the attorney's role is not as well defined, the majority are paid on an hourly fee basis, and none by annual contract.

Question Nine - What is the degree of similarity or difference in the location of the school district attorney's office in districts or enrollment size variation, and is there a relationship between that distance and the attorney's role in the district?

There seems to be a strong similarity between the location of the attorneys' office and his role in the school district. The attorneys' role is strongest in the largest districts, and the amount of mileage between the attorney's office and his representative district is lowest in those districts. Thus, the proximity of the attorney's office to the district he represents may affect the importance of the role he

plays in that district, and usually smaller districts have no local attorney or education law expert available.

Question Ten - What is the average amount of compensation spent for legal services across district enrollment size?

Among the largest school districts, 39.1 percent, spent over \$10,000 and the majority of those spent over \$20,000 for legal services. In contrast, only one of the smallest districts (of 163 reporting) spent over \$10,000, while only six of the middle size districts reported spending over that much. These findings indicate a strong relationship between the amount of money spent for legal services of an attorney or law firm and the perceived role of the attorney in that school district. The more money spent for legal services, the stronger the attorney's role.

Question Eleven - Is there a relationship between compensation levels, district sizes, and types of employment agreements?

There appears to be a strong similarity between the attorney's amount of compensation and the type of employment agreement. The amount of compensation is highest in the largest size districts where many of the attorneys are employed on a retainer or annual basis. It is logical to conclude that the attorney's role is best defined and is more crucial in the largest Oklahoma districts, those having more than 1600 students.

Question Twelve - How are the attorney's services delivered in the various sized districts?

In Oklahoma, across the district size spectrum, the attorneys prefer to use a combination of methods of delivery of services. They use particularly the telephone, letters or memos, and personal visits.

Question Thirteen - Where are personal conferences regarding school matters generally held?

In all of the school districts, regardless of size, the preferred location for conferences is the superintendent's office. This answer coincides with the answer to the next question, in that the attorneys turn first for directions to the superintendent.

Question Fourteen - What is the source of direction/communication for the attorney in the various sized districts?

The superintendent is consistently the source of directions for the school attorney in all districts regardless of size.

Question Fifteen - Where do superintendents turn first for answers to their legal questions?

Again, regardless of the size of the district, the Oklahoma State School Boards Association is consistently the superintendent's initial source for legal advice.

Conclusions

The conclusions are drawn within the limitations of this investigation and may be applicable only to the population studied. Conclusions drawn from the analysis of the data from the study include the following:

1. School attorneys see themselves as being more frequently involved in school district decision-making than do the other respondents, and board presidents see the responsibility of the attorney in district decision-making as being less than do the other respondents.
2. The role of the school attorney is a more active one in larger school districts. Thus it follows that more money is spent for

legal services in those districts, and the attorney is frequently employed on a fee basis or combination of retainer and fee basis in districts larger than 1600 students.

3. The attorney is more involved in the decision-making process in school districts with more than 1600 students, and more of those districts have written policies for their attorneys.

4. The superintendents of all of the school districts are most often the point of contact for employing the attorney and for giving that person directions and instructions. A significant exception is that in the largest districts, in which several attorneys employed by the districts inherited their positions from their father or older members of the same law firm.

5. There is a relationship between where the attorney lives and the size of the school district he/she represents. The attorney tends to live in the large school districts, but lives farther away as the size of the districts become smaller.

6. The majority of school districts in Oklahoma do not have written policies to describe the attorney's role or functions within the district.

7. The school district attorneys in Oklahoma are most frequently involved in the areas of board procedures and student's affairs.

8. The school district attorneys in Oklahoma hold more responsibility in dealing with the areas of student's affairs and personnel matters.

9. The perceptions or expectations of the role of the attorney in Oklahoma do not vary highly among the superintendents, board presidents, or attorneys.

Discussion

Some areas of interest appeared in the course of this investigation that cannot necessarily be validated by information obtained in this study, but are important to the study and worthy of mention.

One such area is the information furnished by the dependent school districts regarding their use of an attorney. All of these districts but one, are less than 400 students in enrollment. It was expected that few, if any of them, would indicate that an attorney was employed by the district.

Twenty-two dependent districts and another 31 independent districts, all with an enrollment under 400 students, responded that they employed an attorney. These numbers represent 26 percent of the independent school districts under 400 students enrollment and about 30 percent of the dependent districts. This rate of response was far more than expected.

However, only eight of all of these small schools indicated any type of formal or verbal arrangement with their attorney; almost all of them indicted their first source of legal information was the Oklahoma State School Boards Association, 97 percent of these schools stated they spent less than \$5,000 for legal services; and over half of these volunteered the information that they spent no money for legal services. All of this information seems to lead to the conclusion that these schools really did not employ the attorney named, but if they had a legal problem, this named person is probably who they would employ. This conclusion, if validated, would reduce the percentage or number of schools in Oklahoma that actually hire and use attorneys.

Another area of interest is why the school board presidents differ in their perception of the involvement of the school attorney in the business of the school. The school board presidents probably differ in their perceptions of the attorney from the superintendents and attorneys because the school board presidents are not usually involved in the day-to-day managing of the schools. This study clearly shows that the attorneys get their directions from the superintendents and that most of the personal conferences are held in the superintendent's office. Thus, it seems reasonable to conclude that the attorney will perceive the business of the school much like the superintendent does. Another possible reason for this difference in perception by the school board presidents is that most of the responses came from school board presidents of school districts of less than 1600 students enrolled, and the majority of these districts seldom use attorneys. This assertion is supported by the other parts of this study, including the tables showing the amount of money spent by the districts for legal services and the lack of formal agreements and understandings in the smaller districts for the attorney.

The role of the school attorney in Oklahoma is similar to that in other states that have been studied. Generally, in Oklahoma, as in other states, the larger districts spend more money for attorneys, have more formal agreements with them, and involve them more in their business than do the smaller school districts. There are some differences, however. One of the more notable differences is that in Minnesota, for example, the school board chairmen are more involved than the Oklahoma school board presidents in the hiring and directing of school attorneys. In Minnesota, attorneys are hired more often with

formal school board resolutions than they are in Oklahoma. Here, superintendents are more involved in hiring and directing the school attorney than are the school board presidents.

In conclusion, this study indicated that the smaller school districts do not use attorneys much because they do not have to and they really do not have the money to spend for attorneys, just to receive good advice. However, as the review of literature indicates, there is a trend of increasing legal involvement for the public schools and the school administrators need to be aware of this trend and start preparing for their participation in it, or start practicing preventative law. The latter would be less expensive in the long run.

Educational Implications

Several educational implications can be drawn from this study. They are:

1. School boards should have written policies which define the job description and employment processes for the school attorneys. As the potential for legal involvement increases for the public school districts, these written policies would insure a continuous standard for the employment and use of the school attorney regardless of the legal situation or change in school administration.
2. School districts should employ legal firms so the educational law specialists within them can address the legal questions at hand. Some legal issues, such as the issues surrounding Special Education, are becoming so technical that a law specialist would be more knowledgeable and better able to protect the school district's interest more efficiently and at a lower cost to the school district.

3. Since school attorneys are most likely to be involved in issues of personnel matters and student affairs, the board and superintendent should review and clarify the written policies dealing with these areas.

4. Because federal and state laws, especially those dealing with due process, are so complicated and awards by the courts against the school districts tend to be getting larger, school districts should consider employing attorneys more than they do in order to practice preventive law.

Recommendations for Further Research

Recommendations for further research developed from this study are:

1. This study and the information gathered, does not include any information that could be furnished by insurance companies regarding the Oklahoma Governmental Tort Claims Act. A study of those districts who are "self-insured" would provide more knowledge of the experience of school districts in the liability section of the legal area.

2. A cost analysis of the liability insurance required of school districts would provide more information in the total cost required for legal protection in Oklahoma. Such questions as: Who are the major insurers for Oklahoma school districts, and how many districts cooperate to purchase insurance would shed some light on another phase of the legal involvement of school districts in the state.

3. A study of teacher dismissals in Oklahoma would provide interesting information as to the success of actions taken and the costs of teacher removal in the state.

4. A study of the different kinds of litigation in Oklahoma and their costs would begin to focus a clearer picture of the involvement of school districts in legal areas.

5. A study of how much of the costs of litigation are due to the requirements for Special Education in the state would add to the information about how much Special Education costs the public schools in Oklahoma.

6. A study of how much of the costs for litigation in Special Education cases is for hearings would provide a further breakdown of costs in the administration of Special Education programs in Oklahoma.

7. A study to compare the costs for legal services in Oklahoma with similar costs in other states, by regions and for the nation, would aid in the making of comparisons between the costs of legal services for Oklahoma schools with the states in our region and with the nation.

8. A study of the total costs of legal services by Oklahoma public school districts would aid in determining the percentages of the total school budget paid for legal fees, liability insurance, hearings, and the costs of going to court, including any awards or restitutions the school district is ordered to make.

9. A study of the kinds of legal advice sought by the school districts and offered by the school attorneys, to include the advice sought by the school districts from the Oklahoma State School Boards Association, would help to determine the legal areas of most concern to the public schools in the state.

Conclusion

The lists of educational implications and recommendations for further research are not meant to be all-inclusive. These lists highlight salient points as they were brought to mind in the course of this investigation. The involvement of public schools in legal areas is just beginning to expand significantly as the impact of federal and state laws begins to be felt by the public schools and the public becomes more aware of their rights under these laws. This broad area, the relationship of public schools to the law, is a fertile area for research and will likely keep investigators busy for some time to come.

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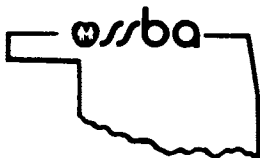
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APPENDIXES

APPENDIX A

COVER LETTERS



Oklahoma State School Boards Association
 2801 N. Lincoln Boulevard
 Oklahoma City, Oklahoma 73105
 (405) 528-3571

January 20, 1989

Dear Superintendent or Dependent Principal:

Public schools are becoming more involved with legal issues as we continue to move towards the 21st Century. Parent, pupils, and employees of school districts no longer accept the authority or policies of the local school boards as absolute, irrefutable, or final. The public schools are increasingly challenged in court or are being threatened by law suits. Consequently the use of school district attorneys is becoming more and more important.


As of now, no one has attempted to survey the public schools in Oklahoma to ascertain the extent of the use of attorneys nor to attempt to analyze the role of the school district attorney.

I am pleased that Ted Butler, Administrative Assistant at Okmulgee Public Schools is now, thru his doctoral studies at Oklahoma State University, attempting to gather such information. I am happy to endorse the study and support Ted in this effort. Please give Ted your support and cooperation. He is sending survey forms to each dependent, independent, and vo-tech district in the state. A timely response from each of you will enable him to compile a complete and solid foundation of information that will help all of us to effectively and efficiently meet the legal challenges that lie ahead.

For further information, please contact Ted at his school address in Okmulgee, P. O. Box 1346, his home address, Route 2, Box 252C, Morris, 74445, or contact Dr. Kenneth Stern, Oklahoma State University, Stillwater, Oklahoma.

Thank you for your support and cooperation.

Sincerely,


 Dr. Bob Mooneyham
 Executive Director

Route 2, Box 252C
Morris, Oklahoma 74445
March 6, 1989

Dear School Board Attorney,

Thank you for your interest in public education and I am especially thankful to you for your interest and consideration of my inquiry.

As the Administrative Assistant to the Superintendent of Okmulgee Public Schools with primary concern for our involvement with Federal programs, I have become more aware of the legal requirements and restrictions imposed on the public schools in the routine performance of their activities in providing for the general education of their constituents. This awareness has led me, through my doctoral studies at Oklahoma State University, to be curious about the depth of involvement of attorneys in public education in Oklahoma, and the type of information I am seeking is not available.

My inquiry, or study, then is to fill an apparent gap of information in the field of educational administration by attempting a survey that will try to answer two questions: How many (and what size) public schools regularly employ attorneys and how are they (their use) perceived?


I am surveying all of the public school districts in Oklahoma and selected attorneys to try to determine which school districts, and what size, regularly employ attorneys and I am also asking those districts, their superintendents and school board presidents and school board attorneys to complete the perception inventory to ascertain how the use of attorneys are perceived.

I hope to have this study completed by this summer and by this fall I intend to furnish a copy of my study to the School Board Attorneys Association as well as to the Oklahoma School Boards Association.

Please complete the questionnaires and return them in the enclosed self-addressed, stamped envelope. All information furnished will be kept confidential. There will be no information in the final report that can be used to identify any specific attorney or school district.

Again, thank you for your help, I appreciate it.

Sincerely,


Ted D. Butler

APPENDIX B

BACKGROUND INFORMATION SHEETS

BACKGROUND INFORMATION SHEET

To be completed by School District Superintendents.

Name of School District: _____

1. What was the total enrollment in your school district as of the beginning of school, September, 1987?

A. 1 - 400 _____ B. 401 - 1600 _____ C. Over 1600 _____

2. Does the school board have a written policy to provide for the employment of a school district attorney?

Yes _____ No _____

3. Does the school board employ the services of an attorney, or law firm on the basis of a retainer fee?

Yes _____ No _____

4. Does the school board consult the same attorney or law firm regardless of the legal issue?

Yes _____ No _____

5. If the response to Question number 4 was Yes, please write below the name and address of the school attorney or law firm.

Name of attorney or firm: _____

Street or P.O. Box: _____

City, State & Zip Code: _____

Telephone Number: _____

6. Does the school board employ an attorney or firm on the basis of the legal issue to be addressed?

Yes _____ No _____

7. If your answer to Number 6 was Yes, please check the statement below which is MOST applicable. Please check only ONE item.

- _____ A. The school board does not believe the services of a school attorney are needed on a retainer basis.
- _____ B. The Superintendent does not believe the services of a school attorney are needed on a retainer basis.
- _____ C. School funds are not available to employ a school attorney on a retainer basis.
- _____ D. The legal issues at hand require flexibility of choice for legal assistance.

page 2 of the BACKGROUND INFORMATION SHEET questionnaire.

8. Is the school attorney (mentioned in Question 5) a resident of the school district?
Yes _____ No _____ Don't Know _____
9. Approximately how much money did the school district spend on legal services in the last school year? (1987-88)
A. \$5000 or less _____, B. \$5000 - \$10,000 _____, C. \$10,000 - \$20,000 _____
D. Over 20,000 _____.
10. The employed school attorney generally receives instruction from the:
(Please check only ONE source)
_____ A. Superintendent
_____ B. School board president
_____ C. Superintendent and School board president jointly
_____ D. Other, please specify: _____
11. When legal issues arise, which is the most frequent contact source of information?
_____ A. School district attorney
_____ B. Other Superintendnet
_____ C. City or County attorney
_____ D. State Department of Education
_____ E. State School Boards Association
_____ F. Other, please specify: _____

INVESTIGATION OF THE ROLE OF THE SCHOOL ATTORNEY

Perception/Expectation Inventory

Background Information - To be completed by School Attorneys.

Name of School District: _____

Name of Attorney: (Will not be used in printed study)

1. How many years have you represented this school district? _____
2. What term best describes the employment arrangement you have with the school district?
 - _____ A. Written contract
 - _____ B. Resolution of the School board
 - _____ C. Verbal agreement
 - _____ D. Other, please specify: _____
3. What term best describes how well your functions as school attorney are defined by the employing school district?
 - _____ A. Precisely
 - _____ B. Vaguely
 - _____ C. Not at all
4. What term best describes the source of direction for your functions?
 - _____ A. School Board President
 - _____ B. Superintendent
 - _____ C. Joint School Board President and Superintendent
 - _____ D. Other, please specify: _____
5. What term describes the method of payment which has been mutually agreed upon by you and the school district for your legal services?
 - _____ A. Annual contract
 - _____ B. Retainer
 - _____ C. Fee basis/hourly
 - _____ D. Other, Please specify: _____

page 2 of the INVESTIGATION OF THE ROLE OF THE SCHOOL ATTORNEY Perception/
Expectation Inventory.

6. Is your office located within the boundaries of your representative school district?
Yes _____ No _____
7. What is the mileage between your office and your representative school district?
_____ Miles
8. How is your service generally delivered?
 _____ A. Telephone
 _____ B. By Letter or Memo
 _____ C. Personal Visit
 _____ D. Other, please specify: _____
9. Where are your personal conferences regarding school matters generally held?
 _____ A. Attorney's Office
 _____ B. Superintendent's Office
 _____ C. Office or Residence of School Board President
 _____ D. Other, please specify: _____
10. Briefly describe the employment process that occurred when you became the school district's attorney.
11. Briefly describe your educational background and qualifications to be a school attorney. (Were you ever in the field of education as a teacher or administrator? Have you had any special courses in educational law? If so, how many?)
12. If there have been conflicts, where did they originate? The School Board? The Superintendent? Where is your usual contact for communication in the school district?

APPENDIX C

PERCEPTION/EXPECTATION INVENTORY

QUESTIONNAIRE

INVESTIGATION OF THE ROLE OF THE SCHOOL ATTORNEY

Perception/Expectation Inventory

To be completed by: School Board Presidents, Superintendents, and
School District Attorneys

The purpose of the remainder of this questionnaire is to determine how you as: (1) a Superintendent, (2) a School Board President, or (3) a School District Attorney perceive the role of the school attorney in each of the Tasks/Decisions listed. This questionnaire should reflect only information during the school years of 1986-87 and 1987-88.

A brief glance at the format of this inventory shows that decision items are printed in the CENTER of the page and are grouped into subject areas. There is a FREQUENCY column with numbers 1-5 to the LEFT of each decision item and a RESPONSIBILITY column with numbers 1-5 to the RIGHT of each decision item. As a respondent, you are to read each decision item and circle a number in the Frequency column AND circle a number in the Responsibility column. Thus, each decision item will have TWO responses: One Frequency response and One Responsibility response.

Specifically, for the Frequency column, (LEFT side), of this survey, the question you should ask yourself is, "How many times did the school attorney take part in each Task/Decision?" The response alternatives that pertain to the Frequency, or the number of times the school attorney was involved in each Task/Decision are:

5. School attorney was involved in 24 or more times during the school years of 1986-87 and 1987-88.
4. School attorney was involved in 16 - 23 times during those years.
3. School attorney was involved in 15 - 8 times during those years.
2. School attorney was involved in 7 - 1 times during those years.
1. School attorney was not involved at all during those years.

Specifically, for the Responsibility column, (RIGHT side), of this survey, the question you should ask yourself is, "As a (1) Superintendent, (2) School Board President, or (3) School Attorney, which one of the choices most clearly represents how I perceived the Task/Decision was handled by the school attorney or myself? The response alternatives that pertain to the Amount of responsibility of the attorney are:

5. Task/Decision was Entirely the responsibility of the attorney.
4. Task/Decision was Largely the responsibility of the attorney.
3. Task/Decision was Shared with the attorney and school official.
2. Task/Decision was Little responsibility of the school attorney.
1. Task/Decision was Not a responsibility of the attorney or is Not Applicable.

DIRECTIONS:

For each item, select only One choice in the FREQUENCY column and only One choice in the RESPONSIBILITY column. Identify those choices by circling the number of your preference.

EXAMPLE:

<u>FREQUENCY</u>	<u>PERSONNEL</u>	<u>RESPONSIBILITY</u>
① 2 3 4 5	Attorney writes the application forms for all types of school district employees.	① 2 3 4 5

Explanation: The response of #1 was chosen because the attorney did not write or help write the school district job application forms. Thus, there was no Frequency of involvement and no Responsibility on the part of the school attorney.

<u>FREQUENCY</u>	<u>A. DISTRICT BUSINESS/COMMUNICATIONS</u>	<u>RESPONSIBILITY</u>
1 2 3 4 5	(1) Attends local conferences for school administrators.	1 2 3 4 5
1 2 3 4 5	(2) Attends regional/national conferences for school administrators.	1 2 3 4 5
1 2 3 4 5	(3) Presents in-service educational law workshops for district administrators.	1 2 3 4 5
1 2 3 4 5	(4) Calls attention to new statutes.	1 2 3 4 5
1 2 3 4 5	(5) Calls attention to new court opinions.	1 2 3 4 5
	(6) Other, specify _____	

<u>B. BOARD PROCEDURES</u>		
1 2 3 4 5	(7) Prepares meeting agendas.	1 2 3 4 5
1 2 3 4 5	(8) Receives a copy of board meeting agendas.	1 2 3 4 5
1 2 3 4 5	(9) Attends local board meetings.	1 2 3 4 5
1 2 3 4 5	(10) Reviews copy of board minutes.	1 2 3 4 5
1 2 3 4 5	(11) Reviews all policy statements.	1 2 3 4 5
	(12) Other, specify _____	

<u>C. BUILDINGS AND GROUNDS</u>		
1 2 3 4 5	(13) Assists in land/building selection.	1 2 3 4 5
1 2 3 4 5	(14) Assists in land site acquisition (condemnation)	1 2 3 4 5

<u>FREQUENCY</u>	<u>C. BUILDINGS AND GROUNDS</u>	<u>RESPONSIBILITY</u>
1 2 3 4 5	(15) Prepares all contracts for sale or lease of district property.	1 2 3 4 5
1 2 3 4 5	(16) Handles all claims of damage to district property.	1 2 3 4 5
1 2 3 4 5	(17) Advises before permanent building closings.	1 2 3 4 5
1 2 3 4 5	(18) Advises on issues of building accessibility.	1 2 3 4 5
	(19) Other, specify _____	
<u>D. PUBLIC SCHOOL-PRIVATE SCHOOL CONTRACTS</u>		
1 2 3 4 5	(20) Handles issues of transportation procedure and compliance.	1 2 3 4 5
1 2 3 4 5	(21) Writes procedures for sharing professionals and consultants.	1 2 3 4 5
1 2 3 4 5	(22) Advises on testing procedures and furnishing textbooks.	1 2 3 4 5
1 2 3 4 5	(23) Advises on Christmas displays.	1 2 3 4 5
1 2 3 4 5	(24) Advises on Christmas music or programs.	1 2 3 4 5
1 2 3 4 5	(25) Advises on Easter displays or music and programs.	1 2 3 4 5
	(26) Other, specify _____	
<u>E. CURRICULUM</u>		
1 2 3 4 5	(27) Advises on curriculum offerings.	1 2 3 4 5
1 2 3 4 5	(28) Advises on extra-curriculum offerings.	1 2 3 4 5
1 2 3 4 5	(29) Advises on bilingual/bicultural compliance offerings.	1 2 3 4 5
1 2 3 4 5	(30) Advises on special education compliance or offerings.	1 2 3 4 5
	(31) Other, specify _____	
<u>F. FINANCE</u>		
1 2 3 4 5	(32) Handles bond issues.	1 2 3 4 5
1 2 3 4 5	(33) Handles referendums.	1 2 3 4 5
	(34) Other, specify _____	
<u>G. PERSONNEL</u>		
1 2 3 4 5	(35) Advises procedures for affirmative action compliance.	1 2 3 4 5
1 2 3 4 5	(36) Takes part in collective bargaining negotiations.	1 2 3 4 5

<u>FREQUENCY</u>	<u>G. PERSONNEL</u>	<u>RESPONSIBILITY</u>
1 2 3 4 5	(37) Writes the master agreement for the school board.	1 2 3 4 5
1 2 3 4 5	(38) Takes part in employee dismissal hearings and procedures.	1 2 3 4 5
1 2 3 4 5	(39) Assists in due process grievance procedures filed by employees.	1 2 3 4 5
1 2 3 4 5	(40) Writes employee job application forms.	1 2 3 4 5
1 2 3 4 5	(41) Handles workman's compensation claims.	1 2 3 4 5
1 2 3 4 5	(42) Advises on the confidentiality of staff and employee records.	1 2 3 4 5
	(43) Other, specify _____	
<u>H. STUDENTS</u>		
1 2 3 4 5	(44) Handles injury claims.	1 2 3 4 5
1 2 3 4 5	(45) Advises on payment of student fees.	1 2 3 4 5
1 2 3 4 5	(46) Advises on dress code issues.	1 2 3 4 5
1 2 3 4 5	(47) Advises on search and seizure procedures.	1 2 3 4 5
1 2 3 4 5	(48) Advises on confidentiality of student records.	1 2 3 4 5
1 2 3 4 5	(49) Reviews all district due process hearing procedures.	1 2 3 4 5
	(50) Other, specify _____	

APPENDIX D

PERCEPTION/EXPECTATION INVENTORY MEAN

SCORE TABLES

TABLE XXXVI
 PERCEPTION/EXPECTATION INVENTORY MEAN SCORES:
 SIZE OF SCHOOL DISTRICT

Areas	Frequency	Responsibility
1-400 (Small)		
A. District Business/Communications	1.3921	1.5137
B. Board Procedures	1.4470	1.5725
C. Buildings and Grounds	1.4248	1.6895
D. Public School-Private School Contracts	1.1013	1.1960
E. Curriculum	1.1764	1.3039
F. Finance	1.2647	1.4019
G. Personnel	1.3333	2.1568
H. Students	1.2908	1.7385
401-1600 (Medium)		
A. District Business/Communications	1.7022	2.0133
B. Board Procedures	1.9911	2.0977
C. Buildings and Grounds	1.6907	2.2592
D. Public School-Private School Contracts	1.1037	1.3148
E. Curriculum	1.2444	1.4638
F. Finance	1.4333	1.8111
G. Personnel	1.6833	2.3083
H. Students	1.7574	2.4555
1600+ (Large)		
A. District Business/Communications	1.9169	2.2075
B. Board Procedures	2.5245	2.2113
C. Buildings and Grounds	1.9245	2.5283
D. Public School-Private School Contracts	1.4182	1.6352
E. Curriculum	1.6226	1.7688
F. Finance	1.4716	1.9528
G. Personnel	1.7853	2.4481
H. Students	2.0220	2.5503

TABLE XXXVII

PERCEPTION/EXPECTATION INVENTORY SCORES BY THE
THREE GROUPS OF RESPONDENTS BY POSITIONS

Area	<u>Frequency</u>		<u>Responsibility</u>	
	Mean	SD	Mean	SD
<u>All Attorneys</u>				
District/Business Comm.	1.8526	0.7776	2.1210	0.8350
Board Procedures	2.2315	1.1038	2.1526	0.9725
Buildings/Grounds	1.6666	0.7749	2.1710	0.9487
Public School-Private School	1.2807	0.8110	1.4605	0.9091
Curriculum	1.4013	0.6865	1.4868	0.7554
Finance	1.3552	0.7062	1.7763	1.1894
Personnel	1.6743	0.7757	2.4078	0.4937
Students	1.9035	0.8591	2.3596	0.9033
<u>All Superintendents/Principals</u>				
District/Business Comm.	1.6620	0.7843	1.9103	0.9270
Board Procedures	1.8241	1.0580	1.8862	1.0504
Buildings/Grounds	1.6681	0.9336	2.2054	1.0630
Public School-Private School	1.2097	0.6524	1.4008	0.7845
Curriculum	1.3362	0.6124	1.5474	0.7452
Finance	1.4210	0.8990	1.7801	1.1558
Personnel	1.6163	0.7692	2.3577	0.6083
Students	1.6795	0.9164	2.2686	0.9491
<u>All School Board Presidents</u>				
District/Business Comm.	1.5650	0.5600	1.8300	0.7903
Board Procedures	2.2600	1.0984	2.1400	1.0662
Buildings/Grounds	1.7500	0.5810	2.1291	0.7381
Public School-Private School	1.0416	0.0905	1.2000	0.3442
Curriculum	1.2437	0.3021	1.4000	0.3616
Finance	1.3500	0.7527	1.6000	0.9281
Personnel	1.5750	0.7086	2.0625	0.5250
Students	1.6000	0.6391	2.3000	0.9020

VITA

Ted D. Butler

Candidate for the Degree of
Doctor of Education

Thesis: THE ROLE OF THE SCHOOL DISTRICT ATTORNEY IN OKLAHOMA

Major Field: Educational Administration

Biographical:

Personal Data: Born in Okmulgee, Oklahoma, May 12, 1938, the son of A. V. and Iona Butler.

Education: Graduated from Morris High School, Morris, Oklahoma, May 11, 1956; attended Central State Teachers College, Edmond, Oklahoma; received an A. S. degree from Connors State Agriculture College, Warner, Oklahoma in May, 1958; received the Bachelor of Science degree from the College of the Ozarks, Clarksville, Arkansas, May 29, 1960; with a major in Physical Education; received the Master of Education degree from Northeastern State University, Tahlequah, Oklahoma on May 14, 1985, with a major in Educational Administration; completed the requirements for the Doctor of Education degree from Oklahoma State University in July, 1989.

Professional Experience: Elementary teacher, Council Hill Public Schools, Council Hill, Oklahoma, 1961-62; secondary science teacher and athletic coach, Beggs Public Schools, Beggs, Oklahoma, 1962-64; secondary social studies teacher and athletic coach, Jenks Public Schools, Jenks, Oklahoma, 1964-65; Claims Representative and Operation Supervisor, Social Security Administration, U.S. Department of Health, Education and Welfare, 1965-1980; self-employed, 1981-1982; secondary science and social studies teacher and athletic coach, Broken Arrow Public Schools, Broken Arrow, Oklahoma, 1982-83; secondary science and social studies teacher and athletic coach, Haskell Public Schools, Haskell, Oklahoma, 1983-84; elementary principal, Haskell Public Schools, Haskell, Oklahoma, 1984-86; elementary principal, Okmulgee Public Schools, Okmulgee, Oklahoma, 1986-88; Administrative Assistant for Federal Programs and Curriculum, Okmulgee Public Schools, Okmulgee, Oklahoma, 1988-89.

Professional Organizations: American Association of School
Administrators, Oklahoma Association of School
Administrators, Cooperative Council of School
Administrators, Association for Supervision and Curriculum
Development, American Council of States for In-Service
Education.