



STATE OF KANSAS

Office of the Attorney General

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CURT T. SCHNEIDER
Attorney General

March 11, 1975

Opinion No. 75-112

Mr. Steven W. Rogers
Attorney for U.S.D. #484
731 Madison
Fredonia, Kansas 66736

Dear Mr. Rogers:

We have received your inquiry concerning the inclusion of an elevator in the plans for remodeling the high school. Specifically you ask if the state architect may so direct such inclusion and its attendant additional expense. It is our view that he may do so.

As you point out, K.S.A. 31-144 directs the fire marshall to inspect and to make recommendations to correct conditions. Upon receiving such an order the board of education of the district, to comply, may make expenditures from its general fund, capital outlay fund or it may issue no fund warrants. After the warrants are issued a tax levy is to be made to pay for them. The warrants are to recite that they are issued under authority of this act. 'This act' includes nearly all of Chapter 31, including K.S.A. 31-150, which prescribes certain construction requirements generally and specifically requires that:

"The construction of school buildings shall include reasonable provision for making buildings and facilities accessible to, and usable by, the physically handicapped as approved by the state architect." [Emphasis supplied.]

Further no construction contracts may be let until the plans have been approved as to all requirements of the section. Therefore the state architect has a duty to see that provision for access for the handicapped is included regardless of the fact that such provision was not in the fire marshall's order.

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K.S.A. 1974 Supp. 58-1301 provides in part for facilities in public buildings:

"All such buildings and facilities constructed in this state after the effective date of this act shall conform to the American standard specifications for making buildings and facilities accessible to, and usable by, the physically handicapped, . . . and as [the specifications] may be modified by regulation adopted by the architectural services division of the state department of administration."

By virtue of 58-1305 the act is applicable to buildings built before December 31, 1969, if the buildings are to be remodeled in excess of twenty-five percent of gross area. The responsibility for enforcement of the act is set out in 58-1304:

"(a) For all school building construction, the architectural services division of the state department of administration"

Thus the duty to enforce under this statute lies with the state architect or local governing body.

Therefore we conclude that, under the applicable statutes, it was proper for the state architect to see that the construction plans included facilities which would allow access to the school by those who are handicapped.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:DMH:kj

cc: Mr. Louis Krueger, Director
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