



STATE OF KANSAS

Office of the Attorney General

1st Floor, State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

CURT T. SCHNEIDER
Attorney General

March 21, 1975

Opinion No. 75-127

Mr. Charles V. Hamm, General Counsel
Social and Rehabilitation Services
Legal Division
State Office Building
Topeka, Kansas 66612

Dear Mr. Hamm:

You ask my opinion concerning the interpretation and construction of certain statutes relating to preferential treatment of blind persons in regards to the operation of vending facilities in government buildings as expressed in K.S.A. 1974 Supp. 75-3337 through 75-3343. Your question concerns, specifically, a dispute arising between your department and the City of Wichita.

These Acts impose a duty upon governmental units which build new offices or renovate old ones to provide for space to allow blind individuals to operate a "vending facility," as defined by K.S.A. 1974 Supp. 75-3338(c).

K.S.A. 1974 Supp. 75-3339(5)(d) states it thus:

"In the design, construction, or substantial alteration or renovation of each public building after July 1, 1970, for use by any department, agency, or instrumentality of the State of Kansas . . . , there shall be included after consultation with the division of services for the blind as satisfactory site . . . suitable for the location and operation of a vending facility. . . ."

[Emphasis supplied]

A vending facility is defined thus:

"The term "vending facility" includes but is not limited to, automatic vending machines, cafeterias, snack bars, cart services, shelters, counters,"

K.S.A. 1974 Supp. 75-3338(c)

Mr. Hamm
Page Two
March 21, 1975

Thus, the law requires that the governmental unit reserve space for a vending facility to be operated by the blind in any new public building. It should be noted that nowhere does the law require that this be the only or exclusive vending facility in the building, but only that they provide space for "a vending facility."

In your letter, you raise a question involving the city building now being constructed in Wichita. You ask whether the cafeteria, which is included in the building, should have been given to the Services for the Blind to operate. It is my opinion that while the city certainly had the authority to allow the Services for the Blind to operate the cafeteria, they were not required to do so. A cafeteria is only one of the several types of "vending facilities."

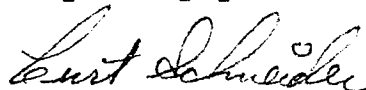
Therefore, the City of Wichita may decide to allow space for one of the other types of vending facilities to be operated by the blind and still fulfill their obligation under the law. Therefore, the City of Wichita would only be in noncompliance with the Act if they failed to offer space for any type of vending facility.

We would caution that the requirements of the law will not be satisfied merely by nominal compliance. The facility in any public building for the operation of which preference must be given to blind persons, must not be merely a token facility, provided merely for the sake of compliance with the act. The facility provided and available under the act must be one reasonably suitable to provide productive employment for the blind.

In a letter to our office dated February 24, 1975, a copy of which was sent to Elton Parsons, and John Dekker, Director of Law for the City of Wichita, indicates that he has provided for a suitable vending facility which would meet the definition contained in K.S.A. 1974 Supp. 75-3338(c).

Therefore, I am of the opinion that K.S.A. 1974 Supp. 75-3337 through 75-3343 requires that space be provided for a vending facility to be operated under supervision of the Services for the Blind in any new or substantially renovated public facility. Further, this vending facility may be of any type defined by the statute and need not be the only facility on the premises.

Very truly yours,



CURT T. SCHNEIDER
Attorney General

CTS:PAH:ksn

cc: Mr. John Dekker