



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

January 21, 1976

ATTORNEY GENERAL OPINION NO. 76- 23

Ms. Ernestine Gilliland
State Librarian
Kansas State Library
535 Kansas Avenue
Topeka, Kansas 66603

Re: Libraries--Funds--Grants-in-Aid

Synopsis: If a recipient library has misspent all or any part of funds received as its 1975 grant-in-aid, the State Librarian is authorized to withhold an amount equal to that determined to have been improperly expended from any subsequent grant-in-aid payment to which such recipient library is otherwise entitled.

* * *

Dear Ms. Gilliland:

K.S.A. 1975 Supp. 75-2558 specifies that state funds distributed to local public libraries and regional libraries pursuant to the State Grants-in-Aid to Libraries Act, K.S.A. 1975 Supp. 75-2553 *et seq.*, may not be expended for

"construction or repair, debt reduction
utilities or capital outlay, other than
for the purchase of books, periodicals
and other circulating library materials
or library service communications"

Noncompliance with this limitation is subject to sanction as follows:

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"Funds expended in violation of this section may thereafter be withheld from later state grants-in-aid to the local public library or the regional library even though such withholding be made in a different fiscal year."

You inquire what action should be taken by the State Library, and yourself, as State Librarian, if a library expends all or part of its 1975 state grant-in-aid for a prohibited purpose. Specifically, you ask whether that amount of funds which has been expended for prohibited purposes from a 1975 grant-in-aid should be subtracted from the amount of the 1976 grant-in-aid which the library is to receive, or whether the total 1976 grant-in-aid should be withheld. K.S.A. 1975 Supp. 75-2557 requires that on or before January 15 of each year, you certify to the director of accounts and reports the amount payable quarterly to each of the libraries of the state as computed under K.S.A. 1975 Supp. 75-2555. Despite this apparent authorization of quarterly payments, K.S.A. 1975 Supp. 75-2556 states that the distribution to local public libraries shall be "apportioned and paid on April 1 and June 1 of each year." Presumably, then distribution to regional libraries shall be quarterly under K.S.A. 1975 Supp. 75-2557, and on April 1, and June 1 of each year, to local public libraries.

If you determine that a recipient library has expended all or part of the funds received as its 1975 grant-in-aid for prohibited purposes, you are authorized to withhold an amount equal to that determined to have been improperly expended from any subsequent grant-in-aid payment to which such recipient library is otherwise entitled. Thus, *e.g.*, the total 1976 grant-in-aid may not be withheld from an offending recipient library unless the amount misspent from its 1975 grant-in-aid is equal to or greater than the amount of the 1976 entitlement.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

CTS:JRM:kj