



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

May 25, 1982

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 82-109

The Honorable Jack H. Brier
Secretary of State
State Capitol, 2nd Floor
Topeka, Kansas 66612

Re: Corporations -- Religious, Charitable and Other
Organizations -- Exemptions from Registration
Under Charitable Solicitation Act

Synopsis: Pursuant to K.S.A. 17-1740, every charitable organization which solicits contributions from persons in Kansas must register with the secretary of state unless specifically exempted. While unified school districts and educational institutions accredited by a regional accrediting association or by an organization affiliated with the National Commission on Accrediting are afforded an exemption by K.S.A. 17-1741, the Institute of Logopedics, under the facts presented, does not qualify for such exemption. Consequently, the Institute is not an educational institution that is exempt from the registration requirements of the Kansas Charitable Solicitation Act. Cited herein: K.S.A. 17-1739, 17-1740, 17-1741, 17-1742.

* * *

Dear Secretary Brier:

You request our opinion as to whether the Institute of Logopedics, Inc., of Wichita is exempt from registration with the Secretary of State, pursuant to requirements of the Kansas Charitable Solicitation Act, through the exemption for educational institutions contained in K.S.A. 17-1741(1).

The Kansas Charitable Solicitation Act, K.S.A. 17-1739 et seq., regulates the solicitation and collection of funds from the public for charitable purposes. It is applicable to any organization which falls within the definition of a charitable organization when there is a solicitation of a contribution in this state. The definitions for "charitable organization" and "charitable purpose" are contained in K.S.A. 17-1739. It provides in pertinent part:

"(a) 'Charitable organization' or organization means any person who solicits and collects funds for charitable purposes or purposes alleged to be charitable

. . . .

"(f) 'Charitable purpose' means any charitable, benevolent, philanthropic, patriotic, or eleemosynary purpose."

From the facts presented, we believe the Institute of Logopedics is without question a charitable organization, a fact apparently recognized by the Institute.

K.S.A. 17-1740(a) imposes requirements on charitable organizations and provides in pertinent part:

"Every charitable organization, except as otherwise provided in K.S.A. 17-1741, which solicits or intends to solicit contributions from persons in this state by any means whatsoever shall be a corporation organized under the laws of this state or authorized to do business in this state, and prior to any solicitation, shall file with the secretary of state of the state of Kansas upon forms prescribed by him, a registration statement"

In K.S.A. 17-1741 there are fifteen categories of "persons" who are exempt from the foregoing registration requirement. The category material to this inquiry is the one pertaining to educational institutions. K.S.A. 17-1741 states in pertinent part:

"The following persons shall not be required to register with the secretary of state:

"1. The state colleges and universities, unified school districts, all educational institutions that are accredited by a regional accrediting association or by an organization affiliated with the national commission of accrediting, any foundation having an established identity with any of the aforementioned educational

institutions, any other educational institution confining its solicitation of contributions to its student body, alumni, faculty and trustees, and their families, or a library established under the laws of this state, provided that the annual financial report of such institution or library shall be filed with the attorney general." (Emphasis added.)

The Institute of Logopedics believes it is an educational institution accredited by a regional accrediting association or by an organization affiliated with the national commission on accrediting, pursuant to the above-quoted provisions. The Institute presently is registered, but is seeking a determination of exemption which would allow the Institute to avoid the costs associated with the supplemental report required under K.S.A. 17-1742.

From the documents and information accompanying your letter, we note that the Institute is accredited by the Commission on Accreditation of Rehabilitation Facilities for Audiology and Speech Pathology, as well as the American Boards of Examiners in Speech, Pathology and Audiology. Accordingly, the caliber and capability of the Institute are not in question, since these organizations are recognized as having high standards, and facilities accredited by them are considered of excellent quality. However, we have been advised that these organizations are neither regional accrediting associations nor organizations affiliated with the National Commission on Accrediting. It is our understanding that the National Commission on Accrediting (now the Council on Post Secondary Accreditation) and regional accrediting associations, of which the North Central Association of Colleges and Schools is an example, certify schools as meeting the prescribed standards for post secondary educational institutions. They accredit universities and colleges, not rehabilitation facilities.

Moreover, even though the Institute is accredited as a special purpose school by the State Board of Education, K.S.A. 17-1741 does not exempt all educational institutions that are accredited by the State Board of Education. It exempts only unified school districts, and we think it appropriate to note in this connection that the Kansas Charitable Solicitation Act was patterned after, and is substantially similar to, the Illinois Solicitation Act, Ill.Rev.Stat., ch. 23, §§5101-5114. The corresponding section of the Illinois statute, Ill.Rev.St., ch. 23, §5103(b), provides in pertinent part:

"The following persons shall not be required to register with the Attorney General:

"1. The University of Illinois, Southern Illinois University, Eastern Illinois University, Illinois State Normal University, Northern Illinois University, Western Illinois University, all educational institutions that are recognized by the State Board of Education or that are accredited by a regional accrediting association or by an organization affiliated with the National Commission on Accrediting, any foundation having an established identity with any of the aforementioned educational institutions, any other educational institution confining its solicitation of contributions to its student body, alumni, faculty and trustees, and their families, or a library established under the laws of this State, provided that the annual financial report of such institution or library shall be filed with the State Board of Education, Governor, Illinois State Library, County Library Board or County Board, as provided by law." (Emphasis added.)

Unlike the Illinois law, our statute does not exempt all educational institutions that are recognized or accredited by the State Board of Education. As previously noted, it exempts only unified school districts. If the legislature desires to exempt other institutions recognized or accredited by the State Board of Education, it may do so by amending our statute in a manner similar to that of Illinois. Unified school districts were specifically listed, and special purpose schools or educational institutions recognized or accredited by the State Board of Education could be specified as well.

Therefore, we must conclude that accreditation by the State Board of Education, the Commission on Accreditation of Rehabilitation Facilities for Audiology and Speech Pathology and the American Boards of Examiners in Speech, Pathology and Audiology does not provide the Institute of Logopedics with exempt status under the Kansas Charitable Solicitation Act. We understand that the Institute currently is in compliance with the registration requirements of that Act, and in our judgment, absent an appropriate legislative amendment to K.S.A. 17-1741, the Institute must maintain such compliance through submission of an annual report and other required information to the secretary of state pursuant to K.S.A. 17-1742.

The Honorable Jack H. Brier
Page Five

In summary, therefore, pursuant to K.S.A. 17-1740, every charitable organization which solicits contributions from persons in Kansas must register with the secretary of state unless specifically exempted. While unified school districts and educational institutions accredited by a regional accrediting association or by an organization affiliated with the National Commission on Accrediting are afforded an exemption by K.S.A. 17-1741, the Institute of Logopedics, under the facts presented, does not qualify for such exemption. Consequently, the Institute is not an educational institution that is exempt from the registration requirements of the Kansas Charitable Solicitation Act.

Very truly yours,



ROBERT T. STEPHAN
Attorney General of Kansas



Linda P. Jeffrey
Assistant Attorney General

RTS:BJS:LPJ:phf