



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

December 29, 1987

MAIN PHONE: (913) 296-2215  
CONSUMER PROTECTION: 296-3751  
ANTITRUST: 296-5299

ATTORNEY GENERAL OPINION NO. 87- 186

Mr. W. Merle Hill, Executive Director  
Kansas Association of Community Colleges  
Columbian Title Building  
820 Quincy  
Topeka, Kansas 66612

Re: Schools - Community Colleges -- Organization,  
Powers and Finances of Boards of Trustees --  
Affiliation with Certain Organizations and  
Associations; Payment of Dues, Membership Fees  
Authorized; Expending Association Funds for Lobbying

Synopsis: The Kansas Association of Community Colleges is not  
prohibited by statute from using its funds which  
are derived from membership fees for lobbying  
expenses. Whether paying for lobbying expenses is  
otherwise a lawful purpose for the association is  
to be determined by the association's bylaws.  
Cited herein: K.S.A. 71-210.

\* \* \*

Dear Mr. Hill:

As executive director of the Kansas Association of Community  
Colleges, you have requested our opinion concerning the use of  
association membership fees. Specifically, you inquire  
whether the association may use its funds, which are derived

from community college membership fees, for the purpose of lobbying expenses.

Your question arises in light of previous opinions which would indicate that community colleges could not use their own funds to achieve the same purpose. In Attorney General Opinion No. 81-216, we addressed the question whether school districts could contribute to the lobbying effort on the severance tax. Noting the well established rule that school districts are creatures of statute, enjoying only those powers expressly conferred by statute, we opined that they could not contribute to such a cause. The rationale was based on a lack of statutory authority, and was not based on the presence of a general prohibition. We believe that the analysis remains valid, and would apply to community colleges.

In Attorney General Opinion No. 74-93, Attorney General Schneider stated that special assessments to pay for the construction of an association building were beyond the authority of school districts. Attorney General Schneider later issued Attorney General Opinion No. 74-206 which stated that while a special assessment was not authorized, payment of dues to the association were specifically authorized, and no limitation on the amount of dues appeared in the statute. Therefore, a 30% fee increase in membership dues was permissible, even though the funds were used for construction costs of the association building. In avoiding confusion of form over substance, it was noted that once the dues were paid to the association as the statute authorized, the funds so paid became the property of the association. The association could use the funds for any lawful purpose within its corporate authority.

In light of the previous opinions, we believe that the Kansas Association is not prohibited by statute from using its funds for lobbying expenses. The boards of trustees of community colleges are authorized to pay dues for affiliation with any association, the purpose and function of which is to provide information, education and assistance in solving problems peculiar to community college operation. K.S.A. 71-210. Based on Attorney General Opinion No. 74-206, once these dues are paid to the association, the monies so paid belong to the association. The limitation on how the funds may be expended

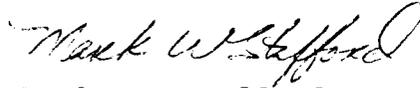
arise from the statutes and the association's bylaws. We find no statutory prohibition against the association paying for lobbying expenses or hiring a lobbying firm.

In conclusion, it is our opinion that the Kansas Association of Community Colleges is not prohibited by statute from using its funds which are derived from membership fees for lobbying expenses. Whether paying for lobbying expenses is otherwise a lawful purpose for the association is to be determined by the association's bylaws.

Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



Mark W. Stafford  
Assistant Attorney General

RTS:JLM:MWS:bar