



STATE OF KANSAS

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ATTORNEY GENERAL OPINION NO. 88- 133

The Honorable Barbara P. Allen
State Representative, Twenty-First District
P.O. Box 8053
Prairie Village, Kansas 66208

Re: Taxation--Liquor Drink Tax--Local Alcoholic Liquor
Fund; Distribution of Moneys

Synopsis: A program designed to encourage youths to seek counseling, education, or treatment for substance abuse may be considered as aiding the prevention and education or intervention of drug and alcohol abuse. Whether this is the principal purpose of the programs in question for purpose of receiving special alcohol and drug programs funds moneys is a question of fact to be determined by the county commission in conjunction with the local drug and alcohol advisory board. Cited herein: K.S.A. 1987 Supp. 79-41a04.

* * *

Dear Representative Allen:

You have requested our opinion regarding whether moneys in a special alcohol and drug programs fund created pursuant to K.S.A. 1987 Supp. 79-41a04 may be expended to fund a teen hotline which considers itself a primary drug and alcohol use prevention program or service.

The portion of the statute directing how such moneys are to be used states:

"Moneys in the special alcohol and drug programs fund shall be expended only for the purchase, establishment, maintenance or expansion of services or programs whose principal purpose is alcoholism and drug abuse prevention and education, alcohol and drug detoxification, intervention in alcohol and drug abuse or treatment of persons who are alcoholics or drug abusers or are in danger of becoming alcoholics or drug abusers." (Emphasis added.)

The underscored language was added to the statute during the 1986 legislative session. When asked to interpret this language, this office opined that it served to raise the standard from "a certain percentage of [the program's] clients being the victims of alcohol or drug abuse, to the point where it can be said that the 'principal purpose' of the program seeking the funds is that of alcohol and drug abuse prevention, etc."

"The broad language of the statute concerning prevention and education would allow for programs aimed at family members or relatives of an alcoholic or drug abuser to receive funds, as long as alcoholism and drug abuse prevention or education is the primary purpose of the program. For example, programs for families with an alcoholic member which focus on dealing with problems associated with alcoholism would probably qualify for these funds. On the other hand, programs dealing with domestic violence generally may only tangentially involve alcoholism and drug abuse prevention and education. In our opinion, these types of programs would probably not fall within the statutory language, and therefore would not be entitled to these tax moneys.

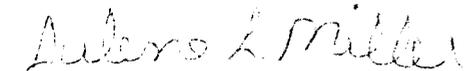
"It should be noted that the statute grants to the county commission the power to make these determinations, subject to the recommendations of an alcohol and drug advisory committee which may be organized for such purpose. Although this office is

not at liberty to make these factual determinations, we can suggest some criteria that a board or commission may wish to consider. These criteria may include any statement of the primary purpose of a program, which may be gleaned from any existing by-laws, brochures, etc., or any evidence of the amount of time a particular program devotes to the prevention, education, treatment, etc. of alcohol and drug abuse, such as employee time sheets." Attorney General Opinion No. 87-103.

It is our understanding that the teen hotline in question is a clearinghouse/referral service for teens who are in trouble or just need someone to talk to. According to the information you have provided, volunteers who take calls are instructed to elicit information about possible substance abuse so that appropriate referrals can be made. Thus, the program serves to get teens in touch with other programs designed to treat, prevent or educate about substance abuse. In our opinion, this service could be considered as aiding the prevention and education or intervention of drug and alcohol abuse, but whether that is the principal or foremost purpose of the teen hotline is a question of fact which must be determined by the county commission and/or the local drug and alcohol advisory committee.

Very truly yours,


Robert T. Stephan
Attorney General of Kansas


Julene L. Miller
Deputy Attorney General

RTS:JLM:jm