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ATTORNEY GENERAL OPINION NO. 92- 123

Thomas D. Harris
Counsel for the Valley Center
Recreation Commission
300 W. Main, P.O. Box 355
Valley Center, Kansas 67147

Re: Cities and Municipalities--Public Recreation and
Playgrounds--Recreation Commission; Distribution of
Taxes; When

Synopsis: Taxes collected for a recreation commission which
certifies its budget to a school district should be
disbursed by the school district to the recreation
commission in a timely manner, normally within 30
days of receipt by the school district. The school
district treasurer is to serve as ex officio
treasurer to the recreation commission without
additional compensation. Cited herein: K.S.A.
9-1401; 12-105b; 12-1678a; 12-1926; 12-1927;
72-8202d; 72-8205.

* * *

Dear Mr. Harris:

As counsel for the Valley Center recreation commission, you request our opinion regarding disbursement of taxes collected for the recreation commission. Specifically, you inquire whether state law requires timely distribution of such tax collections, and whether the school district to which the recreation commission certifies its budget may charge an administrative processing fee for disbursing the taxes.

We presume that the Valley Center recreation commission is created under and/or governed by K.S.A. 12-1922 et seq. You state that unified school district no. 262 (the school district) is the recreation commission's taxing authority. Pursuant to K.S.A. 12-1927(b), the school district is to certify the recreation commission's levy to the county clerk, who in turn is


"required to place the same on the tax roll of the county to be collected by the county treasurer and paid over by the county treasurer to the ex officio treasurer of the recreation commission."
(Emphasis added).

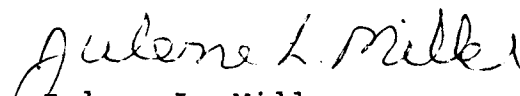
The county treasurer is thus required (presumably pursuant to K.S.A. 12-1678a) to distribute the recreation commission's taxes directly to the ex officio treasurer of the recreation commission. K.S.A. 12-1926(a) provides that the treasurer of the school district is to: serve as the ex officio treasurer of the recreation commission; keep records of all money received and disbursed by the recreation commission; report such to the recreation commission as often as the commission requires; and do so without compensation. It therefore appears that as soon as the tax collections are dispersed to the school district treasurer (the ex officio recreation commission treasurer), the money is available for recreation commission use.

It is our understanding, however, that the check from the county treasurer is made out to the school district. If this is the case, the school district treasurer must deposit the check in a school district account. K.S.A. 72-8202d; 9-1401 et seq. The governing body of the school district must then authorize payment out of the school district account to a recreation commission account. K.S.A. 12-105b. Since boards of education are to meet at least once a month (K.S.A. 72-8205), disbursement should normally take no longer than 30 days.

The school board treasurer may not charge the recreation commission for the functions listed above. K.S.A. 12-1926(a).

Very truly yours,


ROBERT T. STEPHAN
Attorney General of Kansas


Julene L. Miller
Deputy Attorney General