



STATE OF KANSAS

Office of the Attorney General

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Curt T. Schneider
Attorney General

March 3, 1977

ATTORNEY GENERAL OPINION NO. 77- 72

Ms. Shelia Merrell, Director
Division for the Blind and
Physically Handicapped
Kansas State Library
529 Kansas Avenue
Topeka, Kansas 66605

Re: Dependent Persons--Social Welfare--Sight Handicapped
Persons

Synopsis: As part of the Kansas State Library, the Division for the Blind and Physically Handicapped need not release to other state agencies any information contained on application forms submitted by visually handicapped persons who desire to participate in specialized programs.

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Dear Ms. Merrell:

At present the Kansas State Library in coordination with the Library of Congress provides special services for visually and physically handicapped persons who are unable to use conventional print materials. These services are made available to Kansas participants via the Division of the Blind and Physically Handicapped. While there is no charge for the use of any of the materials provided in the Talking Book Services, persons wishing to participate must fill out an application which states the physical disability which prevents them from using conventional printed materials. This application must be certified by some competent authority who has knowledge of the applicant's physical impairment.

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Since the information relating to one's physical disability is of a confidential nature, you have asked whether or not the Kansas State Library is required by law to release this material to any other state agency. As indicated in your letter of inquiry, this opinion request was prompted by a communique from the Library of Congress which advised your office that certain states require that information compiled in this manner be transmitted to various agencies.

After researching your question we find that there is but one Kansas statute, K.S.A. 39-739, which authorizes state agencies to record information pertaining to visually handicapped persons. K.S.A. 39-739 states that:

"Every health and social agency, attending or consulting physician or nurse, shall report in writing to the state board of health, the name, age and residence of all patients or persons who are handicapped in vision, and who come within the definition of 'the blind' as defined in section 39-702 of the General Statutes Supplement of 1947: *Provided*, The reporter may omit such registration upon the objection of the adult blind. Such report shall be made within thirty (30) days after a first consultation, interview or meeting of the agency, physician or nurse, and the blind person, and shall be on a form prescribed by the state board of health."

In conjunction with this law, K.S.A. 39-740 requires the Department of Health and Environment (formerly the State Board of Health) to make these records available to the Secretary of Social and Rehabilitation Services.

One must note here that K.S.A. 39-739 is a directive issued only to health and social agencies, attending or consulting doctors and nurses. It is apparent that of these categories, the only one which could remotely apply to the Kansas State Library would be that of a "social agency." While this term is not specifically defined in Chapter 39, Article 7, analogy may be drawn between this term and the definition of a "social welfare service" which is found in K.S.A. 39-702. Under that definition a "social welfare service" is viewed as some type of governmental service which would attempt to accomplish the following: provide assistance, prevent public dependency and promote the rehabilitation of dependent persons. While the Kansas State Library obviously provides services

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which can be used by visually handicapped, its primary objective does not fall within the definition of either a "social agency" or a "social welfare service." Therefore the provisions of K.S.A. 39-739 and 34-740 are not applicable to the Kansas State Library or any of its subdivisions.

I therefore advise you that it is my opinion that the Kansas State Library need not disclose any information contained on these applications, and you may so advise visually and physically handicapped persons who request these services.

Yours very truly,



CURT T. SCHNEIDER
Attorney General

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