

FILE

Subject

*Schools - Financing  
Use of Funds*

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April 19, 1977

ATTORNEY GENERAL OPINION NO. 77-129

Mr. David H. Anderson  
Shaffer & Anderson  
201 North Kansas Avenue  
Frankfort, Kansas 66427

Re: Schools--Funds--Use Of

Synopsis: Absent express statutory authority, a board of education has no authority to agree with a city to make voluntary payments to the city to defray the costs of a sewage treatment and disposal facility constructed by the city with the proceeds of a bond issue approved under K.S.A. 12-630.

\* \* \*

Dear Mr. Anderson:

You inquire concerning the authority of Unified School District No. 380 to contribute a sum of money to defray the cost of a sewage treatment and disposal facility constructed pursuant to a bond issue authorized by the City of Centralia under K.S.A. 12-630. You advise that at the time the bond issue was authorized, the city suggested to the board of education that because approximately 50 per cent of its students resided in rural areas and thus outside the taxing jurisdiction of the city, it would be fair and equitable if the board were voluntarily to pay the city an agreed-upon sum representing the value of the use of the system by students from outside the city. You indicate that the city's engineering firm recommended the amount of \$8,600 as appropriate. However, counsel for the board of education has advised that because there is no statutory authority for the board to make such a payment, they may not lawfully do so. You have questioned this position, suggesting that the board has the implied power to do so.

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The general rule was reiterated in *State ex rel. McAnarney v. Rural High School District No. 7*, 171 Kan. 437, 233 P.2d 737 (1951) thus:

"In this state it has long been the rule that school districts . . . have only such powers as are conferred upon them by statute, specifically or by clear implication, and that any reasonable doubt as to the existence of such power should be resolved against its existence." 171 Kan. at 441.

As you acknowledge, the board of education has no express authority for such payments. In view of the rule cited above, the board has no generalized residue of implied power which would permit it to make the requested payments. Thus, it is my opinion that the board has no authority, express or implied, for the voluntary contributions which have been suggested by the city.

Yours truly,

CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj