



STATE OF KANSAS

Office of the Attorney General

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August 5, 1977

ATTORNEY GENERAL OPINION NO. 77- 249

Mr. W. Keith Weltmer
Secretary of Administration
Department of Administration
2nd Floor - State Capitol
Topeka, Kansas 66612

Re: Vocational Education--Advisory Council for Vocational
Education--Funds

Synopsis: With the enactment of amendments by the 1977 legislature constituting the Advisory Council for Vocational Education an agency separate and independent from the State Department of Education, the Advisory Council may not expend funds appropriated to the Department of Education for the operation of the Council.

* * *

Dear Secretary Weltmer:

In 1969, the legislature enacted ch. 319, L. 1969, accepting the provisions of Titles I and II of the federal act cited as the Vocational Education Amendments of 1968, 20 U.S.C.A. § 1241 et seq. In that enactment, there was also created the Advisory Council for Vocational Education. Its members were appointed by the State Board of Education, and the Council was authorized to perform such acts as are specified by the 1968 federal vocational education amendments, and as otherwise provided by law. With the approval of the State Board, the Council was authorized to employ staff and to contract for professional services. The State Board was authorized to expend any funds appropriated for vocational education for the operation of the Advisory Council.

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The 1977 legislature acted to conform Kansas law to new requirements of the federal vocational education amendments, to provide the "required independence of advisory council operations from those of the state educational agency." Two statutory changes were made to achieve this conformity: first, the Council was authorized to employ staff and to contract for professional services without the approval from the State Board; secondly, K.S.A. 72-4410 was amended to authorize the Council itself, rather than the State Board, to "expend any funds heretofore or hereafter appropriated for its operating expenses."

However, no monies were appropriated to the Advisory Council. Ch. 16, § 7(b), L. 1977, provides that the sum of \$6,801,224 shall be appropriated to the State Department of Education by a line item entitled "Vocational education amendments of 1968 -- federal funds," with a proviso that not more than \$601,224 may be expended from those funds for state purposes.

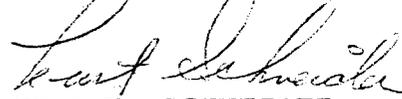
You inquire, first, whether, if the Advisory Council is authorized to make expenditures from this appropriation, what limitations exist to limit the amount it may expend for its operating expenses. As created in 1969, the Advisory Council was administratively subordinate to the State Board, for the former could not employ staff nor retain professional services without the approval of the Board. Similarly, the expenditure of funds for operation of the Council was to be determined by the State Board. The 1977 amendments render the Council an autonomous body, and so far as the statutory language indicates, it is neither legally nor administratively a part of the State Department of Education. It need not look to the State Board for approval to employ staff, nor to expend appropriated monies for its operating expenses. However, the Council may expend only those funds which are appropriated "for its operating expenses." It is entirely unclear on what legal basis the Advisory Council, an independent entity as constituted by the 1977 amendments, may obligate and expend funds which are appropriated to another agency, in this instance, the State Department of Education.

No money may be expended from the appropriation except upon approval of the authorized representative of the Department of Education. Prior to 1977, this appropriation was designated by K.S.A. 72-4410 to be applied to the operating expenses of the Council. With the amendment of that statute, "any funds heretofore or hereafter appropriated for vocational education" are no longer available for that purpose, and the Council must look to "funds appropriated for its operating expenses." There are no funds appropriated to the Council for that purpose, and I can

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find no statutory authority whereby the council may obligate and expend for its operating expenses monies appropriated to another and independent state agency, the State Department of Education.

Yours truly,



CURT T. SCHNEIDER
Attorney General

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