



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

February 26, 1982

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751

ATTORNEY GENERAL OPINION NO. 82- 53

Mr. William R. Kauffman
State Board of Regents
Suite 1416, Merchants National Bank Tower
Topeka, Kansas 66612

Re: State Departments; Public Officers, Employees --
State Library, Services -- Kansas Register

Synopsis: The Secretary of State, pursuant to K.S.A. 75-2567(b),
must provide the Kansas Register to each complete
depository library free of charge. Cited herein:
K.S.A. 1981 Supp. 75-430, 75-433, K.S.A. 75-2565,
75-2566, 75-2567.

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Dear Mr. Kauffman:

As staff attorney for the Kansas Board of Regents, you request
an opinion of this office regarding whether the Secretary of
State must provide, without charge, the Kansas Register to
libraries designated as complete depositories under the pro-
visions of K.S.A. 75-2567. Subsection (b) of that statute
states in part:

"Any library designated as a complete deposi-
tory shall receive one copy of every state
publication deposited with the Kansas state
library."

Accordingly, it must be determined whether the Kansas Register
must be deposited with the state library, for if so, it must
also be provided to complete depository libraries.

K.S.A. 75-2566(b) mandates that the state library shall re-
ceive any publication issued by any state agency. K.S.A.
75-2566(b) states:

"Each state agency shall deposit with the
Kansas state library copies of any publication

issued by such state agency in such quantity
as shall be specified by the state librarian."

For purposes of the foregoing, the terms "state agency" and
"publication" are defined by K.S.A. 75-2565, which provides
in part:

"(a) 'Publication' means any report, pamphlet,
book or other materials provided by a state
agency for use by the general public;

"(b) 'state agency' means any state office or
officer" (Emphasis added.)

Pursuant to K.S.A. 1981 Supp. 75-430, the Secretary of State
is directed to compile, index and publish a publication to
be known as the Kansas Register. K.S.A. 1981 Supp. 75-433
permits the Secretary of State to sell copies of the Kansas
Register to state agencies and other subscribers.

Because the Kansas Register is published by a state officer,
namely, the Secretary of State, and is intended to be used
by any subscriber, which we can only conclude means the gen-
eral public, it is clearly a "publication" as defined by
K.S.A. 75-2565. Therefore, the Kansas Register must be pro-
vided to the Kansas State Library as mandated by K.S.A.
75-2566(b).

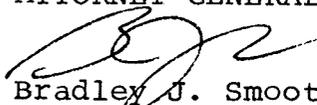
As noted previously, K.S.A. 75-2567(b) requires that any
library designated as a complete depository must receive one
copy of every state publication deposited with the Kansas
State Library. Moreover, since K.S.A. 75-2566(b) requires
the deposit of agency publications with designated state
libraries, an agency is without authority to condition such
deposit upon the payment of a fee or charge by the library
to such agency. Such was clearly not the intent or command
of the statute. We note further that the state library cur-
rently does not pay any other state agencies for copies of
their publications. Hence, in our judgment, the Secretary
of State may not condition the deposit of the Kansas Register
in designated state libraries upon payment of a subscriber
fee or other charge by such libraries.

Thus, it is our opinion that the Secretary of State must pro-
vide the Kansas Register to complete depository libraries,
free of charge.

Very truly yours,



ROBERT T. STEPHAN
ATTORNEY GENERAL OF KANSAS



Bradley J. Smoot
Deputy Attorney General