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ATTORNEY GENERAL OPINION NO. 87- 148

The Honorable Bill Morris
State Senator, Twenty-Seventh District
9822 Hardtner
Wichita, Kansas 67212-4629

Re: State Departments; Public Officers and Employees --
Department of Social and Rehabilitation Services --
Family and Children Trust Fund; Authorized Projects

Synopsis: The legislative intent for the use of moneys in the family and children trust fund was to benefit local projects which relate to problems of families and children. The provider of the benefit need not be a local agency or organization. Moneys from the fund may be used for projects administered by a statewide agency or organization so long as those projects confer an actual benefit directly to community-based programs. Cited herein: K.S.A. 1986 Supp. 75-5328, as amended by L. 1987, ch. 352, § 1.

Dear Senator Morris:

As State Senator for the Twenty-Seventh District, you have requested our opinion concerning expenditures from the family and children trust fund. Specifically, you inquire whether moneys in the fund may be used for projects which are administered by a statewide organization or agency but which support, strengthen, or otherwise benefit community-based projects or educational programs.

The family and children trust fund is created by K.S.A. 1986 Supp. 75-5328(a), as amended. Subsection (b) lists five purposes for which moneys in the fund may be used:

"(1) Matching federal moneys to purchase services relating to community-based programs for the prevention of problems of families and children;

(2) providing start-up or expansion grants for community-based prevention projects or educational programs for the problems of families and children, primarily but not limited to, child abuse and neglect and family abuse;

(3) study and evaluate community-based prevention projects and educational programs for the problems of families and children;

(4) preparing, publishing, purchasing and disseminating educational material dealing with the problems of families and children; and

(5) payment of the salary and actual and necessary travel expenses of the coordinator employed by the children and youth advisory committee. . . ." K.S.A. 1986 Supp. 75-5328(b), as amended by L. 1987, ch. 352, sec. 1.

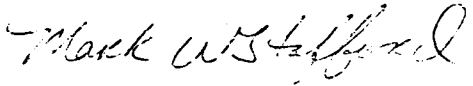
The legislative intent is discernible from the language of the statute. The purpose of the act is to combat problems which families and children face. To meet that goal, the legislature created a fund which provides money for support and services at the local level. To further implement the plan, educational materials and the coordinator's salary and expenses are paid for out of the fund. Based on this legislative intent, it appears that the focus is placed on the nature of the beneficiaries of the services, not on the level of government supplying the services. It is well established that moneys from a fund may only be used for purposes which are expressed or clearly implied. Joint Consolidated School Dist. No. 2 v. Johnson, 163 Kan. 202, 208 (1947). The statute expressly requires that expenditures relate to community-based programs. It is implied that those services

may be provided by non-local entities. For example, subsection (b)(3) states that the fund shall be used for studying and evaluating projects. Subsection (b)(4) states that the fund shall be used for preparing, publishing and purchasing educational materials. These purposes relate to community-based projects, but are not necessarily provided by local agencies or organizations. In short, if the projects contemplated provide an actual benefit to community-based programs, then it would be proper to use moneys from the fund for such projects.

In conclusion, in our opinion, the legislature intended that moneys in the family and children trust fund be used for the benefit of local projects relating to problems of families and children. The provider of the benefit need not be a local agency or organization. Therefore, moneys from the fund may be used for projects administered by a statewide agency or organization so long as those projects confer an actual benefit directly to community-based programs.

Very truly yours,


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