

April 30, 1968

Opinion No. 63

(343)

Answered by Letter -
Brannock

Honorable Raymond Howard
State Representative - 10th District
Missouri House of Representatives
705 Chestnut
St. Louis, Missouri



Dear Representative Howard:

We have your request for an official opinion of this office which is as follows:

"The legislature appropriated about \$300,000.00 to purchase land so that a building for trainable children could be constructed. This \$300,000.00 is part of a larger appropriation which includes money for a building. The State Board of Education at its last meeting voted to buy a large tract of land and pay for it by using (1) the above mentioned \$300,000.00, (2) \$350,000.00 from the School for the Blind Trust Fund and (3) \$600,000.00 to be requested from the next legislature. It plans to construct on this same land one or two buildings for the School for the Blind. The land involved is just across the street from the School for the Blind.

1. Is it legal to use School for the Blind Trust Fund to buy land for the normal operation of the School for the Blind?
2. It is permissible to commingle money in the School for the Blind

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Trust Fund with other moneys in order to serve a purpose in no way essentially related to the Blind as purchasing this land?"

The Constitution of Missouri, Article IX, Section 9(b) is as follows:

"The general assembly shall adequately maintain the State University and such other educational institutions as it may deem necessary."

The Legislature has established special schools under the management of the State Board of Education. One of these is the Missouri State School for the Blind, provided for in Section 178.010, RSMo Supp. 1967.

Section 178.047, RSMo Supp. 1967, is:

"The state board of education, whenever it deems it necessary for the best interest of the school or schools, may acquire land or other property by gift, purchase, eminent domain, or otherwise for the use and benefit of the Missouri School for the Blind at St. Louis. . . ."

Section 178.060, RSMo Supp. 1967, is:

"The state board of education may receive and administer any grants, gifts, devises, bequests or donations by any individual or corporation to the Missouri School for the Blind at St. Louis and the Missouri School for the Deaf at Fulton. Grants, gifts, devises, bequests or donations made for a specified use shall not be applied either wholly or in part to any other use."

Paragraph one of Section 178.070, RSMo Supp. 1967, provides that all funds derived from grants, gifts, donations or bequests or from the sale or conveyance of any property acquired through any grant, gift, donation, devise or bequest to or for the use of the Missouri School for the Blind or income received or earned on property may be deposited in the state treasury in a fund known as the "School for the Blind Trust Fund".

Paragraph three thereof is as follows:

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"The moneys in the school for the blind trust fund or in the school for the deaf trust fund shall not be appropriated for the support of the schools in lieu of general state revenues but shall be appropriated only for the purpose of carrying out the objects for which the grant, gift, donation, devise or bequest was made as recommended by the state board of education."

It will be noticed in the foregoing paragraph three of Section 178.070, that the blind trust funds shall not be appropriated for the support of the school for the blind in lieu of general state revenues, but shall be appropriated only for the purpose of carrying out the purpose for which they were given to the fund. The Department of Education has advised us in writing, and has made present Trust files available to us for examination, and they state in writing that there are no specific directions contained in the conveyances from which funds were derived which were deposited and credited to said fund which specify the purpose for which said funds shall be expended.

It is the opinion of this office that money in the School for the Blind Trust Fund derived from conveyances to the fund which do not specify any purpose for which the funds may be used can be appropriated and expended by the Board of Education for the purchase of land and construction of buildings for the School for the Blind if request for funds from general revenue for such purchase has resulted in an appropriation from general revenue less than the Board has requested as necessary for such purchase and that such expenditures are for the normal operation of the School for the Blind.

The Department of Education advised this office in writing on November 20, 1967, and again on January 23, 1968, that ". . . there was never any intention to comingle School for the Blind trust funds and other state funds for the purchase of the land" Therefore, we believe it unnecessary to answer your second question.

Yours very truly,

NORMAN H. ANDERSON
Attorney General

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