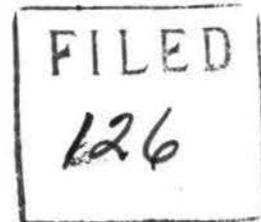


August 23, 1977

OPINION LETTER NO. 126  
Answer by Letter - Klaffenbach

Honorable Donald L. Manford  
State Senator, 8th District  
c/o Senate Post Office  
State Capitol Building  
Jefferson City, Missouri 65101



Dear Senator Manford:

This letter is in response to your request for an opinion asking the following questions:

"1. May funds which are appropriated to one of the distinct departments of state government and which are designated as being 'For . . . ' a particular division or program within or administered by the department be used for payment of the expenses of any kind of another division or program regardless of whether or not the designation is itemized to any further degree?

"2. Does a department director have the power to transfer funds within his departmental appropriation from one division or program to another?

"3. May an appropriation made for a division or program be used to pay for the expenses of the operation of the department's central office?"

We understand your request to be of a general nature and we believe that it would be unwise and inappropriate for this office to speculate as to the various possible fact situations which may exist.

Senator Donald L. Manford

We believe, however, that there are some general principles which may be stated regarding the transfer of funds by a department head from one division or program to another in his department. These principles are subject to qualification as necessary when precise factual situations are considered.

In our Opinions No. 152-1974 and No. 349-1974, copies enclosed, we concluded that funds appropriated for a specific purpose may not be used for a different purpose. Opinion No. 152-1974 further concluded that where funds are appropriated to a division for a particular purpose that the department director, if he has been given broad authority by the General Assembly in the management of the department operations, may transfer such appropriation to another division of the department for the same purpose. The reasoning on which that conclusion was based was that the director had statutory duties given him under substantive law in handling the affairs of his department which duties were not altered by the appropriation act.

Opinion No. 152-1974 represents the view of this office only insofar as it relates to appropriations to divisions in the circumstances and factual situations set forth in such opinion and does not purport to rule on any other factual situation. Both of the enclosed opinions illustrate the difficulty that would be involved in making such rulings without considering specific situations.

As stated above, we cannot and do not rule on questions of fund transfers within a department in the absence of specific questions relating to particular statutory authority which may exist with respect to various departments and divisions of state government.

Very truly yours,

JOHN ASHCROFT  
Attorney General

Enclosures: Op. No. 152  
3/27/74, Sikes  
  
Op. Ltr. No. 349  
11/7/74, James