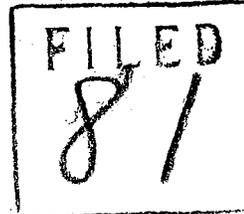


STATE TRAINING SCHOOLS: Any money appropriated for the State Training School at Tipton should not be paid to the State Training School at Chillicothe, after the transfer of the inmates of the Tipton School to the School at Chillicothe.

Also, the \$15.00 per month paid to the various schools by the county from which the inmate comes, should, after the transfer of the inmates of the Tipton School to the School at Chillicothe, be paid to the Chillicothe Institution for each transferee from the Tipton School.

February 24, 1956.

Honorable W. E. Sears
Director
State Board of Training Schools
Jefferson City, Missouri



Dear Sir:

Your recent request for an official opinion reads:

"The 68th General Assembly, through its appropriations and in accordance with legal provisions established by earlier assembly, made possible the combination of the Training School for Negro Girls at Tipton to be combined as a part of the Training School for Girls in Chillicothe. It is believed this combination of the two programs will become a reality on or about September 1, 1956.

"Appropriations were also made to provide for the expansion of one girls cottage now on the campus at the girls school in Chillicothe so the structure would adequately house the colored girls at such time the physical transfer was accomplished. Contracts for the necessary renovation of the building are now in the process of being perfected.

"The legislature, in giving normal appropriations (Personal Service, Operations, Additions, Repairs & Replacements), relating to the Training School for Negro Girls, were materially reduced, yet designed to care for the operation of the colored girls school for a period of time until combining of the institutions could become a reality, or to care for the remaining time of this biennium. We have found it most difficult to operate the school in Tipton in keeping with these limited funds. The quarterly releases have proven inadequate in many areas but we have been able to keep within the limitations and therefore, at the time the actual combination of the two schools is made, there

Honorable W. E. Sears

will exist in the normal funds certain balances that will be apparent on or about September 1, 1956. If the cost of maintaining the school remains as high as it has in the past several months, we may be forced to request a release of quarterly funds in advance of their due date. The request for such a release will be only as a last resort in our efforts to keep the school properly operating.

"The problem of administering the distribution of these funds, after the schools are combined, together with the expenditure of funds from the training school operation at Chillicothe to provide for a well-rounded rehabilitation program from the period of September 1, 1956, to the end of the biennium, presents a series of problems on which we would appreciate your advice and counsel.

"There will be certain members of the personnel of the school in Tipton that will assume responsibility at the Chillicothe school on a full-time basis when the combination is made. There will be other personnel now employed at the Tipton school that will be released from duty. The regular operation of caring for the colored girls will continue to exist with relation to food, medical service, the educational program, recreational activities, clothing, and other related areas.

"The physical property of the building at Tipton will, according to law, be transferred to the Department of Corrections. At this writing, I am not aware of what use they intend to make of the facility. The fact remains, however, that revenue directed to the Training School for Negro Girls in the area of 'Repairs and Replacements' and 'Additions' will not be transferred to the Department of Corrections for structural improvement.

"A question immediately arises as to how the unexpended funds of the Training School for Negro Girls may be utilized in their maintenance cost for the rest of this biennium after the girls and personnel are part of the total program at the school in Chillicothe. It is not known whether the unexpended balances may be added to the funds existing at the girls school in Chillicothe or whether the girls school at Chillicothe may bill the Training School for Negro Girls funds for necessary expenditures within the amount of revenue available.

Honorable W. E. Sears

The possibility also exists there will not be sufficient funds in the Training School for Negro Girls appropriation to cover the full remaining months of the entire biennium.

"One other problem just occurred to me that should receive your consideration. As you know, the various counties pay a quarterly maintenance fee of \$15.00 per month to the various schools, based upon the number of individuals committed to our care. After the consolidation of the schools and until the next biennium, how shall this revenue be accredited and expended?

"In light of the brief and general discussion of problems that will soon arise, we would appreciate being specifically advised as to how funds existing at the two girls schools may be properly processed through the office of the Comptroller, and that of the State Treasurer, so full operation of the two programs which now exist, and their combination into one unit, may be successfully realized in accordance with the law. It is hoped your reply will be specific in nature so copies of the reply may be made and forwarded to administrative officials at the girls school in Chillicothe and the fiscal officers of this office, to the end that united and co-operative effort may be realized in accordance with directives you supply.

"Due to the nature of the problems so outlined, we would appreciate having an early reply so we can gear our present and future activities in keeping with the numerous decisions your office will make. In the event we can be of any assistance to you in supplying specific data not covered in this communication, please advise."

Provisions for the change which you have discussed above were made by the 66th General Assembly, Laws of Missouri, 1951, page 365, sections 1 and 2 of which read:

"1. As soon as practicable after the effective date of this act and when adequate separate housing is made available at Chillicothe by the General Assembly and the state Board of Training Schools, the state board of training schools may transfer all the inmates of the state training school located at Tipton, Missouri to the state training school located at Chillicothe, Missouri.

"2. Immediately after the transfer of the inmates as provided in section 1 of this act the care, custody

Honorable W. E. Sears

and control of the property, now comprising the state training school at Tipton, Missouri shall be vested in the department of corrections."

From the above it is clear that what is contemplated is the complete extinguishment of the state training school at Tipton, and that this extinguishment will take place immediately after the transfer of the inmates of the school to Chillicothe.

You state that the appropriation for the school at Tipton was designed only to meet the needs of the school until its discontinuance, which you state you believe will be about September 1, 1956.

The question which you ask is: "A question immediately arises as to how the unexpended funds of the training school for negro girls, (at Tipton) may be utilized in their maintenance cost for the rest of this biennium after the girls and personnel are part of the total program at the school in Chillicothe?" This question raises the question of whether the money appropriated for the maintenance of the state training school at Tipton can be spent by another institution, namely the state training school at Chillicothe, after the Tipton school ceases to exist. We do not see how it can be. The appropriation was for the Tipton School. We will assume that it ceases to exist on September 1st. By what possible line of reasoning could it be held that the remainder of the appropriation for the state training school at Tipton should be paid over to the state training school at Chillicothe? We do not see any such line of reasoning, nor do we see, as you suggest, how, after September 1st, the Chillicothe school could bill the Tipton school for any costs, because, the Tipton school, having ceased to exist, there is no one to bill.

It is well known that appropriations are earmarked for the particular object for which they are appropriated, and that there can be no deviation from the object.

Section 23 of Article IV of the Constitution of Missouri states:

"Fiscal year - limitations on appropriations - specification of amount and purpose.- The fiscal year of the state and all its agencies shall be the twelve months beginning on the first day of July in each year. The general assembly shall make appropriations for one or two fiscal years, and the 63rd General Assembly shall also make appropriations for the six months ending June 30, 1945. Every appropriation law shall distinctly specify the amount and purpose of the appropriation without reference to any other law to fix the amount or purpose."

Honorable W. E. Sears

Section 28 of Article IV states:

"Withdrawals from treasury--limitations on authority to incur obligations - certifications by comptroller and auditor - expiration of appropriations. - No money shall be withdrawn from the state treasury except by warrant drawn in accordance with an appropriation made by law, nor shall any obligation for the payment of money be incurred unless the comptroller certifies it for payment and the state auditor certifies that the expenditure is within the purpose of the appropriation and that there is in the appropriation an unencumbered balance sufficient to pay it. At the time of issuance each such certification shall be entered on the general accounting books as an encumbrance on the appropriation. No appropriation shall confer authority to incur an obligation after the termination of the fiscal period to which it relates, and every appropriation shall expire six months after the end of the period for which made."

Your second question is thus stated by you: "As you know, the various counties pay a quarterly maintenance fee of \$15.00 per month to the various schools, based upon the individuals committed to our care. After the consolidation of the schools and until the next biennium, how shall this revenue be accredited and expended?"

In this respect, we direct your attention to Section 219.230 RSMo 1949, which reads:

"1. The board may transfer any child under its jurisdiction to any other institution for children, public or private, if after careful study of the child's needs, it is the judgment of the board that the transfer should be effected.

"2. The board may for the purpose of discipline, with the approval of the governor, transfer any person committed to its custody, to any state adult correctional institution. Any such person shall be subject in all respects to the discipline of the adult correctional institution to which he is transferred and shall be entitled to all of the rights provided for persons committed to such institution, except that no person committed to the board for an indeterminate period of time shall be confined in such adult correctional institution after reaching the age of twenty-one years. The board may,

Honorable W. E. Sears

after hearing, release any such person on parole with like effect and under the same circumstances as if he had remained in the custody of the board."

Also to Section 219.260 RSMo 1949, which reads:

"There shall be paid to the board of training schools by the county from which the child is committed the sum of fifteen dollars per month for the support, maintenance, clothing, and all other expenses of each child committed to the board, from the time of his reception by the board until his discharge; provided, that no payment shall be made for the time that any child may be absent from the school or other institution. All payments shall be made quarterly in advance in cash. In the event of a transfer of any child under the provisions of section 219.230, the board shall, on requisition of the institution or agency to whom custody of said child is transferred, pay to such agency or institution the amounts paid to it under this section and section 219.270 for the period of such transfer."

From the above it is clear that the \$15.00 per month now received for each inmate of the Tipton school should be paid to the Chillicothe institution after the inmates of the Tipton school have been moved to the state school at Chillicothe, since the \$15.00 follows the inmate.

CONCLUSION

It is the opinion of this department that any money appropriated for the state training school at Tipton should not be paid to the state training school at Chillicothe, after the transfer of the inmates of the Tipton school to the school at Chillicothe.

It is also the opinion of this department that the \$15.00 per month paid to the various schools by the county from which the inmate comes, should, after the transfer of the inmates of the Tipton school to the school at Chillicothe, be paid to the Chillicothe institution for each transferee from the Tipton School.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, Hugh P. Williamson.

Very truly yours,

John M. Dalton
Attorney General

HPW/lid