

Opinion No. 63-97—August 19, 1963

SUBJECT: SCHOOL BOND FUNDS—Expenditure of, for acquisition of books for public school library or to supplement original collection when needed as part of material expansion of library discussed.

Requested by: DIRECTOR OF FINANCE

Opinion by: STANLEY MOSK, Attorney General
Richard L. Mayers, Deputy

The Honorable Hale Champion, Director of the Department of Finance, has requested an opinion on the following two questions:

1. May the State Allocation Board make apportionments pursuant to Section 19560 of the Education Code to otherwise eligible school districts for the purchase of library books as part of an original collection, or as a supplement thereto, it being understood that "library books" are used herein in their ordinary sense, exclusive of textbooks which students are required to possess or utilize, and exclusive of newspapers, periodicals, pamphlets and documents?

2. May school districts expend bond funds pursuant to Section 21701 of the Education Code for the purchase of said library books as part of an original collection or as supplements thereto?"

The conclusion is:

School districts may expend bond funds pursuant to Education Code section 21701 and the State Allocation Board may make apportionments pursuant to Education Code section 19560 to otherwise eligible school districts for the purpose of library books that are designed to constitute a part of an original collection for a public school library or to supplement that collection when required as a part of a material expansion of the library.

ANALYSIS

Education Code section 21701 (all section references are to the Education Code unless otherwise specified) is the basic statute which sets forth the purposes for which school districts may expend bond funds. Section 21701, subdivision (e), provides that bond funds may be used for the "supplying to school buildings and grounds with furniture, *equipment* or necessary apparatus of a permanent nature." (Emphasis added.) The State Allocation Board makes apportionments pursuant to section 19560. Subdivision (b) of section 19560 contains similar language in that it authorizes apportionments from the State School Building Aid Fund to be used for "the purchase of necessary desks, tables, chairs and other movable furniture and equipment, as approved by the Department of Education." The question presented involves simply the question whether the term "equipment" may encompass the purchase of library books for a public school library as a part of the original collection of that school library or as a supplement thereto.

We have found no cases squarely in point and the views of various county counsels throughout this state are divided on this problem. We do note, however, that for many years the California School Accounting Manual, 77-78 (1961 ed.) (Published in Vol. XXX, No. 11 of the October, 1961 Bulletin of the State Department of Education) defines equipment as:

"Physical property of a permanent nature, other than land and buildings, that has the characteristic of movability"

". . .

"Nonconsumable articles generally classified as supplies, but necessary to start or materially expand the equipping of a school, classroom, a specified area other than a classroom or another facility, shall be classified as equipment.

"Examples: . . . library books"

The 1951 edition of the School Accounting Manual lists as appropriate to include under the heading "Capital Outlay" the "cost of library books for a new school library or for material expansions." *Id.* at 36.

This treatment of library books as constituting equipment represents a long-continued as well as contemporaneous administrative interpretation. We see no reason for treating those library books that constitute the basic permanent collection of a school library as any different from library tables, chairs, or movable stacks. *Board of Supervisors v. Cotbran*, 84 Cal. App. 2d 679, 685 (1948), discussed the test for determining the authorization and expenditure of school bond proceeds, namely, whether "such power is necessarily or fairly implied in or incident to the powers expressly granted or essential to the purposes of a school district."

The initial acquisition of a permanent school library collection is essential to fulfilling the purposes for which the school library itself was constructed. (To paraphrase Lewis Carroll, "What is the use of a library without books," said Alice.) The use of bond proceeds to supplement that initial collection when required as a part of a "material expansion" of the library would also be proper.

It is not appropriate for this office to attempt to designate by categories the types or classifications of books that are properly a part of the permanent collection of a public school library. This is a task that is properly left to trained educators and qualified librarians. The phrase "library books" as it has been used in this opinion, refers to books designed for the permanent collection of a school library such as the classics, dictionaries, reference works, encyclopedias, scientific books, and books of a similar character without which public education would be seriously impaired. Documents of a transient nature, such as current newspapers, periodicals, as well as pamphlets of a temporary character do not come within the term "equipment of a permanent nature" in section 21701, subdivision (e).