

OPINION NO. 91-060**Syllabus:**

Law seminars conducted under the direction of a county bar association for the purposes of educating its members in changes in the law or the provision of other legal information may be considered "services" under R.C. 3375.54 for which a county law library may expend funds received or retained pursuant to R.C. 3375.50-.53 and R.C. 3375.56, if free access to such seminars is provided to the public officials designated in R.C. 3375.48 and R.C. 3375.55, and if such seminars are permissible under the law library association's charter, bylaws, rules, or regulations.

To: Kevin J. Baxter, Erie County Prosecuting Attorney, Sandusky, Ohio
By: Lee Fisher, Attorney General, December 31, 1991

I have before me your request for my opinion on the following question:

Are law seminars conducted under the direction of a county bar association, for the purpose of educating its members in changes in the law or the provision of other legal information, considered "services" under R.C. Section 3375.54 for which a county law board of trustees may expend funds?

A member of your staff has indicated that some of these seminars may be accredited for continuing legal education (CLE) credits for attorneys, but in all instances are intended to provide legal information to the attendees. The seminars are generally conducted at sites other than the law library itself. The funds expended would be for payment to the presenters of the seminars, at either a fixed rate or per capita charge, thus allowing free attendance at the seminar.

R.C. 3375.54 states:

The money that is paid to the board of trustees of a law library association under sections 3375.50 to 3375.53 of the Revised Code shall be expended in the support and operation of the law library association and in the purchase, lease, or rental of lawbooks, a computer communications console that is a means of access to a system of computerized legal research, microform materials and equipment, videotape materials and equipment, audio or visual materials and equipment, *and other services, materials, and equipment that provide legal information or facilitate legal research.* (Emphasis added.)

The funds referred to in R.C. 3375.54¹ are paid to the law library board of

¹ A law library association is a private entity organized either as a private association or a nonprofit corporation under R.C. 1713.28. See 1986 Op. Att'y Gen. No. 86-102 at 2-565. The expenditure of private moneys held by the association is not restricted by R.C. 3375.54, but rather

trustees from moneys collected by the courts as fines, penalties, or bail forfeitures. See R.C. 3375.50 (municipal courts); R.C. 3375.51 (county courts); R.C. 3375.52 (common pleas and probate courts); R.C. 3375.53 (violations of state liquor and traffic laws in any court within the county). Additionally, pursuant to R.C. 3375.56, the law library association may retain up to ten percent of the unencumbered balance of funds received under R.C. 3375.50-.53 during the preceding year, after refunding up to ninety percent proportionately to the political subdivisions from which the funds were received. It has long been held that the moneys received under R.C. 3375.50-.53 and retained under R.C. 3375.56 are public funds which may be expended only for purposes specified by statute. See *Greene County Law Library Ass'n v. Ferguson*, No. CA 1139 (Ct. App. Greene County Dec. 24, 1980) (unreported) (rejecting the argument that funds retained under R.C. 3375.56 become private funds of the law library association); 1988 Op. Att'y Gen. No. 88-104 (syllabus, paragraph 2) ("[f]unds derived by a county law library association pursuant to R.C. 3375.50-.53 may be expended only for the purposes expressed in R.C. 3375.54").

As a private association, a county law library association may not receive and expend public funds except for a public purpose. See generally *State ex rel. Dickman v. Defenbacher*, 164 Ohio St. 142, 128 N.E.2d 59 (1955); *State ex rel. Pugh v. Sayre*, 90 Ohio St. 215, 107 N.E. 512 (1914); 1989 Op. Att'y Gen. No. 89-068 at 2-311. The legislature has specifically conditioned the receipt of public funds by county law library associations on the provision of free access to designated public officials. See R.C. 3375.48 (free access by members of the general assembly, county officers and judges of the several courts of the county); R.C. 3375.55 (free access by county court judges, township and municipal officers). Thus, as stated in Op. No. 89-068 at 2-311, "this public purpose [of free access to designated public officials] must be understood as an inherent condition of the specific expenditures authorized in R.C. 3375.54." Accordingly, R.C. 3375.54 authorizes a law library board of trustees to expend public funds in their custody on such "other services...that provide legal information or facilitate legal research" as the trustees deem appropriate, as long as the public officials designated by statute have free access to the services or the products thereof.

Law programs or seminars, whether accredited for CLE or not, whether conducted under the direction of a county bar association or not, can be characterized as services which provide legal information or facilitate legal research. See Op. No. 89-068 at 2-313. If the service is made available free of charge to the public officials designated in R.C. 3375.48 and R.C. 3375.55, I see no reason to require that the seminar be conducted within the physical confines of the law library itself. See 1989 Op. Att'y Gen. No. 89-070 (allowing purchase of lawbooks for branch of county law library located in a community college). Nor do I find any objection, *per se*, in the fact that members of the bar association may attend such seminars free of charge by virtue of the expenditure of R.C. 3375.50-.53 funds for payment to the presenters. Neither R.C. 3375.48 nor R.C. 3375.55 require that access to services of a county law library association be free *only* to the statutorily designated officials. Part of the attraction of the statutory funding scheme is that, in return for providing access to public officials, the county law library association acquires the financial resources to purchase books, equipment, materials and services which benefit not only those officials but whatever other constituency the association wishes to serve. As stated in Op. No. 89-068 at 2-312 n.4:

The fact that the expenditures of public funds for the provision of a law library and related services to public officials may simultaneously serve additional purposes of the law library association is, of course, entirely acceptable. See *Bazell v. City of Cincinnati*, 13 Ohio St. 2d 63, 233 N.E.2d 864 (1968) (syllabus, paragraph two)

is governed by the association's charter, bylaws, rules or regulations. See *Van Wert County Law Library Ass'n v. Stuckey*, 42 Ohio Op. 1, 8, 94 N.E.2d 32, 45 (C.P. Van Wert County 1949) (county law library association "is like any other private association and may use such private funds for any proper purpose of the association"); 1988 Op. Att'y Gen. No. 88-104 at 2-512; Op. No. 86-102 at 2-567.

(holding that additional benefit to private parties does not invalidate a legitimate public purpose). As a private organization, a law library association may have any number of purposes in addition to serving public officials. I note, for example, many law library associations are formed to provide services to the local bar as well as to public officials. What is prohibited is the use of public funds for any purpose which is totally unrelated and separable from the statutory purpose which is the basis for the public funding.

See also Op. No. 89-070 at 2-323 ("[a]ccess of other individuals, e.g. community college students or members of the local bar...[is] governed solely by the purposes and procedures specified in the association's charter, by-laws, rules, or regulations"). Accordingly, a board of county law library trustees may not expend public funds for a law seminar provided free only to members of the bar association. If the seminar is free to all public officials designated in R.C. 3375.48 and R.C. 3375.55, however, the law library association may allow such other persons to avail themselves of the seminar free of charge as may be permitted by the association's charter, bylaws, rules or regulations. *Accord* Op. No. 89-068 at 2-313 ("[i]f public officials are given free access to such programs or seminars, I see no impediment to the expenditure of moneys collected under R.C. 3375.50-.53 to provide the programs in whole or in part").

It is, therefore, my opinion, and you are hereby advised that law seminars conducted under the direction of a county bar association for the purposes of educating its members in changes in the law or the provision of other legal information may be considered "services" under R.C. 3375.54 for which a county law library may expend funds received or retained pursuant to R.C. 3375.50-.53 and R.C. 3375.56, if free access to such seminars is provided to the public officials designated in R.C. 3375.48 and R.C. 3375.55, and if such seminars are permissible under the law library association's charter, bylaws, rules, or regulations.