

OPINION NO. 73-037

Syllabus:

The State Librarian, under R.C. 3375.02 (H), is authorized to make appropriate transfers or disposition of books and materials no longer needed in the State Library without regard to R.C. 125.19.

To: Joseph F. Shubert, State Librarian, Columbus, Ohio
By: William J. Brown, Attorney General, April 20, 1973

Your request for my opinion sets forth the following proposal for the disposition of Traveling Library books:

The State Library Board, at its November 14, 1972 meeting, approved the closing of the Traveling Library Section of the State Library and authorized the State Librarian to accomplish this. The closing of this unit requires disposition of Traveling Library books, many of which are not being retained for the permanent collection of the State Library.

Some of the Traveling Library books should be transferred to county extension center libraries because they were purchased with federal Library Services and Construction Act (LSCA) funds and therefore must continue to be used in public or institutional library service as authorized under Title I of LSCA. In light of Sec. 3375.02 (H) and the earlier Opinion of the Attorney General, we believe the State Librarian has

the authority to make this transfer.

Your Opinion is respectfully requested in response to the following question: Does Sec. 3375.02 (H) authorize the State Librarian to make appropriate transfers or disposition of books and materials no longer needed in the State Library without regard to Sec. 125.19 of the Ohio Revised Code?

Under R.C. 3375.01 and 3375.02, the State Library Board and the State Librarian have certain responsibilities and authority over the State Library and its collection of books, periodicals, and other materials. The State Librarian's specific authority to dispose of books no longer needed is granted by R.C. 3375.02 (H), which provides:

The state library board shall appoint a state librarian, who shall be the secretary of said board, and under the direction and supervision of the board shall be the executive officer of the state library, with power to appoint and remove the employees thereof. The state librarian shall:

* * * * *

(H) Withdraw books and materials from the collection and determine method of disposition of any items no longer needed.

(Emphasis added.)

On the other hand, R.C. 125.19 is a general statute providing for the disposition of surplus state property. It reads as follows:

The department of finance shall establish a state exchange department. Whenever any supplies or equipment in any department of the state are not required for use in such department, or whenever any property of the state is to be abandoned, or any department of the state is abolished or discontinued, the officer in charge of such department or property shall notify the department of finance. The department of finance shall take possession of such supplies or equipment not required for use, or property to be abandoned, and all supplies, equipment, records, books, and papers of such abolished or discontinued department. It shall inventory and appraise such property, supplies, and equipment, and turn over to the auditor of state such records, papers, and books, and a copy of such inventory and appraisal. The department of finance shall give the officer, board, or commission, from whom it receives any supplies or equipment not required for use in a department, credit upon the account of such officer, board, or commission for such appraised value. The department of finance may have such supplies or equipment repaired.

After the Department of Finance has inventoried and appraised such surplus property, it may sell it on the open market, R.C. 125.20, or it may transfer it to other departments of the state upon receipt of a proper requisition, R.C. 125.21 and 125.22. The educational institutions of the state are, however, specifically exempted from the coverage of the Sections of the Revised Code. R.C. 125.11; Opinion No. 1676, Opinions of the Attorney General for 1952. The State Library, which is included in Title 33 of the Revised Code, is, of course, an educational institution of the state.

The meaning of a statute must, in the first instance, be found in the language in which the statute is drafted, and if that language is clear and unequivocal, "it must be taken as the final expression of the legislative intent, and is not to be added to or subtracted from by evidence from any extraneous source." Katz v. Department of Liquor Control, 166 Ohio St. 229 231 (1957); Opinion No. 72-103, Opinions of the Attorney General for 1972. In my opinion the language of the Sections of the Revised Code with which you are concerned is without ambiguity. The State Library is clearly exempted from the coverage of R.C. 125.19, and the State Librarian has clearly been authorized, under R.C. 3375.02 (H), to dispose of books and materials no longer needed by the Library. Furthermore, the specific provision of R.C. 3375.02 (H) was enacted in 1969 (133 Ohio Laws, 776), long after the general provisions of R.C. 125.19. "The rule is that a specific statute will prevail over the provisions of a prior enacted general statute." Cincinnati v. Bossert Machine Co., 16 Ohio St 2d 76, 79 (1968).

In specific answer to your question it is my opinion, and you are so advised, that the State Librarian, under R.C. 3375.02 (H), is authorized to make appropriate transfers or disposition of books and materials no longer needed in the State Library without regard to R.C. 125.19.