



STATE'S ATTORNEY COUNTY OF KANKAKEE

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James Rowe
State's Attorney

MEMORANDUM OF OPINION

TO: Jim Rowe

FROM: Graeme J. Quinn, ASA

DATE: July 26, 2018

RE: Review of "flower fund" policy

On June 23, 2018, you asked Nancy and I to research the legality of a County policy allowing for the County to purchase flowers for the family of a County employee who is hospitalized or has passed away. It is our opinion that this policy is not supported by the Illinois Constitution nor authorized under State law, and should cease to exist.

Article VIII, Section 1 of the Illinois Constitution states that "Public funds, property or credit shall only be used for public purposes". The Illinois Supreme Court has stated directly, and cases abound in support, that "what is a public purpose is primarily for the legislature to determine; judicial interference with the legislature is not warranted unless there has been a clear abuse of power" *People ex rel. Douglas v. Barrett*, 370 Ill. 464 (Ill. 1939).

The State legislature would, therefore, define "public purpose" and **we do not find any statutory authority allowing the County to purchase flowers for a private memorial service or hospitalization.** As a non-home rule County, the County would need statutory authority in order to implement such a policy. Further, although elected officials control the internal operations of their respective offices, **they must do so within the bounds of their statutory authority. Expending public funds for a non-public purpose, such as funeral flowers, falls outside those bounds.**

At this time, it would be our opinion that **there is no statutory authority for the expenditure of public funds for funeral flowers, and we would recommend that the practice of purchasing flowers with public funds cease.**

Let us know if you have any further questions.