

August 19, 1969

OPINION LETTER NO. 355

Honorable Ted Salveter
State Representative
District 142
1005 Woodruff Building
Springfield, Missouri 65806



Dear Representative Salveter:

This is in reply to your request for an opinion from this office on the following question:

" . . . Can a member of the Missouri General Assembly also serve as an attorney for a state college or other state institution or can his law firm of which he is a member and receives compensation, represent a state college. . . ."

As you know, this office in a Letter Opinion to you (Attorney General Opinion No. 182, April 30, 1969) held that employment by a state college or university was employment by the state for the purposes of Article III, Section 12 of the Missouri Constitution.

That section provides in part as follows:

" . . . When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. . . ."

The question presented in this opinion hinges on the issue of whether the rendering of legal services to a state college or other state institution would be "employment" as that term is used in Article III, Section 12.

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The term "employment" is subject to a variety of legal interpretations depending upon the context in which it arises. Since the purpose of Article III, Section 12 appears to be to prevent the potential conflicts of interest which would arise if a senator or representative were to have other duties with respect to other governmental bodies, we are of the opinion that a broad interpretation of the word "employment" is called for when construing that section.

We note that the term "employment" is used with reference to the attorney-client relationship in Supreme Court Rule 4.37. That rule reads, "The duty to preserve his client's confidence outlasts the lawyer's employment, . . ." (emphasis supplied).

We therefore are of the opinion that an attorney who is a state senator or representative may not represent a state college or other state institution and continue to serve as a state senator or representative. For a state senator or representative to do so would be a violation of Article III, Section 12 of the Missouri Constitution.

You also ask whether a law firm of which a senator or representative is a member may represent a state college or other state institution. Here, too, we are of the opinion that the law firm may not represent a state college or other institution. Pursuant to authority of Supreme Court Rule 5.16, The Advisory Committee of the Missouri Bar has issued Official Opinion 91. It is said in that opinion that ". . . A law firm may not render professional services with regard to any matter which any partner, associate or employee could not properly perform. . . ." This office has found no authority which would support a position contrary to the position taken by The Advisory Committee.

Yours very truly,

JOHN C. DANFORTH
Attorney General