

SCHOOLS: Construction of Laws of Missouri 1933, page 415 with reference to funds from cafeterias.

11-14
November 13, 1935.



Honorable Roy Ellis
President State Teachers College
Springfield, Missouri

Dear Sir:

This Department is in receipt of your letter of October 30, requesting an opinion as to the following state of facts:

"At the request of our Board of Regents I am writing you relative to our cafeteria fund. Our cafeteria is operated on a non-profit basis for the benefit of the students. While a relatively small percent of the students board there, yet it serves as a restraint upon the price of board in the vicinity of the college. It yields no net return whatever for meeting college expenses. It is in the nature of a revolving fund. Today's receipts purchase tomorrow's supplies and so on ad infinitum. It results in a rather deceptive inflation of our receipts; the money being placed into the treasury each month and withdrawn each month by requisition multiplies the item over and over and gives the college the appearance of receiving a lot of money which it does not receive at all. It leaves a false impression with the legislature and with others.

The Board desires to know whether it might not be exempted from deposit in the state treasury as coming under 'housing activities' or some other phase of the proviso exempting certain funds from deposit in the treasury

according to the Act of 1933. Would it not be within the spirit of the law to say that 'housing facilities' includes board facilities also? The two generally go together."

Laws of Missouri 1933, page 415, provides:

"All fees, funds and moneys from whatsoever source received by any department, board, bureau, commission, institution, official or agency of the state government by virtue of any law or rule or regulation made in accordance with any law, shall, by the official authorized to receive same, and at stated intervals, be placed in the state treasury to the credit of the particular purpose or fund for which collected, and shall be subject to appropriation by the General Assembly for the particular purpose or fund for which collected during the biennium in which collected and appropriated. The unexpended balance remaining in all such funds (except such unexpended balance as may remain in any fund authorized, collected and expended by virtue of the provisions of the Constitution of this State), shall at the end of the biennium and after all warrants on same have been discharged and the appropriation thereof has lapsed, be transferred and placed to the credit of the ordinary revenue fund of the state by the state treasurer. Any official or other person who shall willfully fail to comply with any of the provisions of this section, and any person who shall willfully violate any provision hereof, shall be deemed guilty of a misdemeanor; provided, that in the case of state educational institutions there is excepted therefrom, gifts or trust funds from whatever source; appropriations, gifts or grants from the Federal Government, private organizations and individuals; funds for or from student activities, farm or housing activities, and other funds from which the whole or

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some part thereof may be liable to be repaid to the person contributing the same, and hospital fees; all of which excepted funds shall be reported in detail quarterly to the Governor and biennially to the General Assembly."

CONCLUSION.

In view of the statute above set out, it is not possible to exempt the funds received by State educational institutions from cafeterias operated by said institutions unless it be that said funds be construed as having been received from "student activities." It would appear that these funds, from the facts as stated in your letter, do constitute "funds received from student activities", however, this is purely a question of fact and thus this Department cannot officially pass upon the matter.

Respectfully submitted,

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APPROVED:

ROY McKITTRICK,
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JWH: MM