

SCHOOLS: Appropriations for State Teachers Colleges.

April 25th, 1939.

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Honorable Delmar Dail,  
State Senate,  
Jefferson City, Missouri.

Dear Senator:

We have your letter of April 21,  
last which reads as follows:

"Pursuant to our conversation of a few days ago, I am writing to request an opinion of the Attorney General relative to the appropriation for teachers colleges in the State of Missouri.

In so far as the information I have at hand these appropriations could be made from the fund provided by the one-third appropriation of general revenue to the free school fund, and I would like to have a definite opinion as to whether or not under the existing statutes this could be taken from that fund."

In answer to your question, beg to say that the Constitution of the State of Missouri, Section 6, Article 11, created a public school fund derived from the various sources set forth in said section. This section further provides as follows:

"\* \* \* \* \* the annual income of which fund, together with so much of the ordinary revenue of the State as may be by law set apart for that purpose, shall be faithfully appropriated for establishing and maintaining the free public schools and the State University in this article provided for, and for no other uses or purposes whatsoever."

Section 7, of the Constitution provides that no less than twenty-five percent (25%) of the state revenue shall be set apart and applied annually to the support of public schools.

Section 9712 R. S. Mo., 1929, is a legislative declaration by way of repetition of Section 6 of the Constitution. Section 9712, however, winds up as follows:

"\* \* \* \* \* together with not less than twenty-five per cent of the state revenue, shall be applied annually to the support of the public schools provided for in this chapter, to be apportioned as hereinafter provided."

The "chapter" referred to is Chapter 57 of the present revised statutes, and which chapter as a part thereof contains Article 18 relating to the setup and operation of the State Teachers College. Hence, it is reasonably clear that the Legislature intended that the support of the state teachers colleges, along with the other public schools, was to be provided for out of the income from the school fund created under the statutes together with the not less than twenty-five per cent (25%) of the state revenue.

While we do not find that the issue has been directly raised and passed on in any form in our courts as to whether a state teachers college is a public school, or a part of the public school system, within the meaning of the Constitution or statutes, yet we believe that the inclusion of the teachers colleges in the chapter of the statutes relative to the public school system is a recognition by the Legislature that a teachers college is a public school.

Furthermore, there is no provision in our law for appropriation out of the public school money for the support of an educational institution, unless it is a public school within the meaning of the Constitution and statutes.

Based upon the minimum amount that the General Assembly must set apart from the state revenue, to-wit, twenty-five per cent (25%), for school purposes, the custom has become more or less established whereby one-third instead of one-fourth of such revenue has been appropriated for school purposes.

Our research has failed to disclose any special fund or any special provision pertaining to support of the several teachers colleges. Consequently, there appears to be no inhibition in making an appropriation for support of the teachers

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colleges from the income of the aforesaid school fund together with the one-third part of the state revenue.

Yours very truly,

J. W. BUFFINGTON,  
Assistant Attorney General.

APPROVED:

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J. E. TAYLOR  
(Acting) Attorney General

JWB:RV