

TWO QUESTIONS IN
REGARD TO VOCATIONAL
EDUCATION:

State Board of Educa-
tion is not authorized
to receive funds from
R. E. A. cooperatives
for such training pro-
gram.

June 24, 1942

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Hon. Lloyd W. King
State Superintendent of Public Schools
Jefferson City, Missouri

Dear Mr. King:

We have your opinion request of June 3,
1942, which is as follows:

"The State Department of Education, Vocational Division, has been requested by the United States Department of Agriculture, Rural Electrification Administration, to cooperate in a job training program for the Rural Electrification Administration cooperatives in Missouri. The training program, if inaugurated, would be financed by funds from the cooperatives matched with Federal funds for vocational education.

"Before making any arrangements for carrying on the job training program for the Rural Electrification Administration, I should like to have your opinion about the following:

1. Would the State Department of Education, Vocational Division, be authorized to receive funds from the Rural Electrification Administration cooperatives, deposit those funds in the State Treasury, and after having matched them with Federal funds, expend them for carrying on a training program.

2. Is the Rural Electrification Administration a government agency? Would the cooperatives of the Rural Electrification Administration be construed as a part of a government agency or would the cooperatives of the Rural Electrification Administration be public (non-private) institutions?"

For the purpose of this opinion we shall answer your questions in reverse order. The first question to be considered is, "Is the Rural Electrification Administration a government agency?" Chapter 21, Title 7, Paragraph 901, U. S. C. A., in very clear words decides this question. That section is as follows:

"There is hereby created and established an agency of the United States to be known as the 'Rural Electrification Administration', all of the powers of which shall be exercised by an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of ten years, and who shall receive a salary of \$10,000 per year. This chapter may be cited as the 'Rural Electrification Act of 1936'."
(Underscoring ours.)

The second part of your second question namely, "Would the cooperatives of the Rural Electrification Administration be construed as a part of a government agency or would the cooperatives of the Rural Electrification Administration be public (non-private) institutions?". As I understand the law, the cooperatives of the R. E. A. would not be construed as either of the two mentioned. The Rural Electrification Cooperative Act is found in Article 7, Chapter 33 of Revised Statutes of Missouri, 1939. The second section under this chapter

designates just what these cooperatives are. Section 5387, which is the section we mention, is as follows:

"Cooperative, nonprofit, membership corporations may be organized under this act for the purpose of supplying electric energy and promoting and extending the use thereof in rural areas. Corporations organized under this act and corporations which become subject to this act in the manner hereinafter provided are hereinafter referred to as 'cooperatives.'"

Further, Section 5388, R. S. No., 1939, sets out the powers among which are the following:

"A cooperative shall have power:

- (a) To sue and be sued, in its corporate name;
- (b) To have twenty-five years existence;
- (c) To adopt a corporate seal and alter the same at pleasure; * * * * *

Section 5389 provides that rules and regulations prescribed by the Public Service Commission shall apply to these cooperatives.

Section 5391 sets out how they may be organized.

Section 5392 provides for articles of cooperatives to be filed with the Secretary of State.

Section 5393 provides for bylaws to be adopted.

Section 5394 provides for qualifications for membership, meetings, etc.

Section 5395 provides for a board of directors to manage the cooperative.

Sections 5402 provides in part as follows:

"Any corporation organized under the laws of this state for the purpose, among others, of supplying electric energy in rural areas may be converted into a cooperative and become subject to this act with the same effect as if originally organized under this act by complying with the following requirements: * * * "

Hence, we believe that a Rural Electrification Cooperative is nothing more nor less than a private corporation organized under the laws of this State in a like manner as any other private corporation.

Now, turning to your first question, which asks in substance if the State Department of Education-vocational division-could receive funds from these cooperatives, divert them to the State Treasurer and after matching them with federal funds expend them for carrying on a training program. We must assume in the first instance that this training or job program would be a program to train men for these cooperatives. Section 48, Article 4, Constitution of Missouri, provides as follows:

"The General Assembly shall have no power to make any grant, or to authorize the making of any grant of public money or thing of value to any individual, association of individuals, municipal or other corporation whatsoever: Provided, That this shall not be so construed as to prevent the grant of aid in a case of public calamity."

Article 8, Chapter 72, R. S. Mo., 1939,

together with the amendments of Sections 10525, 10526, 10527, 10528, 10529, Laws of Missouri, 1941, sets out just what the State Board of Education-- Vocational Division--can do, who shall keep the funds, where the funds shall be obtained and all other matters relating to this branch of the educational system.

Section 10553 permits the State Board to accept gifts and donations which shall be used as you set out in your question only for the rehabilitation of disabled persons. Nowhere in this Act is authority granted the State Board to accept such aid nor to dispense funds in such a manner as you have mentioned in your question.

CONCLUSION

It is, therefore, the opinion of this office:

- 1) That the Rural Electrification Administration is a government agency.
- 2) That the cooperatives formed under the Rural Electrification Administration are merely corporations organized similarly to and governed in the same manner as other corporations of like nature.
- 3) That the State Board of Education is not granted

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the authority to accept funds from the cooperatives and divert them to the State Treasurer who would in turn match them with federal funds for the purpose of special job training for the cooperative's personnel.

Respectfully submitted,

MAX WISERMAN
Assistant Attorney-General

APPROVED:

ROY McKITTINICK
Attorney-General

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