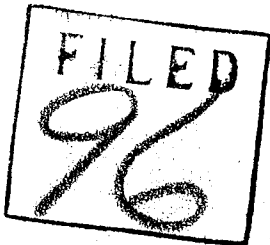


STATE BOARD OF EDUCATION:
SOCIAL SECURITY:
VOCATIONAL REHABILITATION:

House Bill No. 202, 68th General Assembly, authorizes State Board of Education to formulate and execute plan of agreement in carrying out provisions of Federal Social Security Act in making determination of disability under Title II thereof. State Board has authority to designate Vocational Rehabilitation Section to administer such plan.



June 15, 1955

Honorable Hubert Wheeler
Commissioner and Executive Officer
State Board of Education
Jefferson Building
Jefferson City, Missouri

Dear Mr. Wheeler:

This is in response to your request for opinion received in this office on June 6, 1955, which reads, in part, as follows:

"I shall be glad to have your advice and official opinion in answer to the following questions:

"(1) Does H.B. 202, 68th General Assembly, authorize the State Board of Education to formulate and execute a plan of agreement in carrying out the provisions of the Federal Act in making determination of disability under Title II of such Act?

"(2) Since the State Board of Education is empowered and directed to make an agreement under the Federal Social Security Act for making determination of disability and the State Board has full authority and jurisdiction over the Vocational Rehabilitation Section, would it have authority to delegate to the Rehabilitation Section the administration of the plan established by the agreement?"

Sections 1 and 2 of House Bill No. 202, to which you refer, read as follows:

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"Section 1. The state board of education is hereby empowered and directed to enter into an agreement on behalf of the state with the secretary of U.S. Department of Health, Education and Welfare to carry out the provisions of the Federal Social Security Act, as amended, relating to the making of determinations of disability Under Title II of such Act.

"Section 2. All moneys paid by the federal government to the state to carry out the agreement referred to in section 1 of this Act shall be deposited in the state treasury to the credit of a special fund to be known as the Disability Freeze Fund, which is hereby created. All moneys in said fund shall be disbursed on warrants issued in accordance with requisitions of the state board of education."

Section 3 of said act contains the emergency clause.

The above House Bill refers to the Federal Social Security Act relating to the making of determinations of disability under Title II of such act. Section 221 of Public Law 761, 83rd Congress, Ch. 1206, H.R. 9366, Amendments to Title II of the Social Security Act, reads, in part, as follows:

"Sec. 221. (a) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216 (1)) and of the day such disability began, and the determination of the day on which such disability ceases, shall, except as provided in subsection (g), be made by a State agency pursuant to an agreement entered into under subsection (b). Except as provided in subsections (c) and (d), any such determination shall be the determination of the Secretary for purposes of this title.

"(b) The Secretary shall enter into an agreement with each State which is willing to make such an agreement under which the

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State agency or agencies administering the State plan approved under the Vocational Rehabilitation Act, or any other appropriate State agency or agencies, or both, will make the determinations referred to in subsection (a) with respect to all individuals in such State, or with respect to such class or classes of individuals in the State as may be designated in the agreement at the State's request."

Section 222 thereof also reads, in part, as follows:

"Sec. 222. It is hereby declared to be the policy of the Congress in enacting the preceding section that disabled individuals applying for a determination of disability shall be promptly referred to the State agency or agencies administering or supervising the administration of the State plan approved under the Vocational Rehabilitation Act for necessary vocational rehabilitation services, to the end that the maximum number of disabled individuals may be restored to productive activity."

The state agency administering the state plan approved under the Vocational Rehabilitation Act is the State Board of Education. Sections 162.280 - 162.320, RSMo 1949.

Section 160.010, RSMo 1949, creates the Department of Education and Section 160.020, RSMo 1949, creates the State Board of Education, which is the governing body of the Department. Section 160.090, RSMo 1949, enumerates many specific duties of the State Board of Education, and Subsection 3 thereof states that "The Board shall have such other powers and duties as may be prescribed by law."

The Legislature, by House Bill No. 202, has not only empowered but has directed the State Board of Education to enter into an agreement with the Secretary of the U.S. Department of Health, Education and Welfare to carry out the provisions of the

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Federal Social Security Act, as amended, relating to the making of determinations of disability under Title II of such act. The plan to which you refer will merely be a part of that agreement.

The Vocational Rehabilitation Section is merely a part of the Department of Education, of which the State Board of Education is the governing body. Therefore, the State Board does have the authority to designate the Vocational Rehabilitation Section as the agency to administer the plan to be established by the agreement with the above federal agency.

CONCLUSION

It is the opinion of this office that House Bill No. 202, 68th General Assembly, authorizes the State Board of Education to formulate and execute a plan of agreement in carrying out the provisions of the Federal Social Security Act in making determination of disability under Title II of such act.

It is the further opinion of this office that the State Board of Education has the authority to designate the Vocational Rehabilitation Section of the Department of Education as the agency to administer the plan to be established by the agreement with the Secretary of the U.S. Department of Health, Education and Welfare.

The foregoing opinion, which I hereby approve, was prepared by my Assistant, John W. English.

Yours very truly,

JOHN M. DALTON
Attorney General

JWI:ml:gm