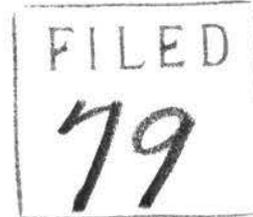


NON-TEACHER RETIREMENT: Employees of the junior college districts  
SCHOOLS: are not members of the Non-Teacher School  
JUNIOR COLLEGES: Employee Retirement System (Sections  
169.600 - 169.710, RSMo. Supp. 1965).

OPINION NO. 79 (1966)  
Opinion No. 450 (1965)

March 17, 1966

Mr. Geo. L. Donahoe,  
Executive Secretary  
Public School Retirement System  
Farm Bureau Building  
Jefferson City, Missouri



Dear Mr. Donahoe:

This opinion is issued in response to your request for an official ruling:

You inquire:

"Are the employees of junior college districts organized under the provisions of Sections 178.770 to 178.890 [RSMo. Supp. 1965], to be considered as 'employees' in accordance with the definition of this term in House Bill 88?"

House Bill 88 of the 73rd General Assembly has been designated Sections 169.600 to 169.710, RSMo. Supp. 1965.

Section 169.600(4), defines "employee" as:

"'Employee', any person regularly employed by a public school district, as defined in sections 169.600 to 169.710, who devotes at least twenty hours per week to such employment in a position which is not covered by the public school retirement system of Missouri; provided, however, that no person shall be entitled to, or required to contribute to, or to receive benefits under both the public school retirement system of Missouri for the same services; \* \* \*

Section 169.600(10) defines "public school district" as"

"'Public school district' or 'district', any duly constituted public school district under the authority and supervision of a duly elected district or city or town board of directors or board of education, except those school districts defined in sections 169.270 and 169.410; \* \* \*

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Section 160.011, RSMo. Supp. 1965, defines "public school" and "school district" as follows:

"(3). 'District' or 'school district', when used alone, may include common, six-director, urban, and metropolitan school districts;

"(9). 'Public school' includes all elementary and high schools operated at public expense; \* \* \*"

These definitions of Section 160.011, are not expressly applicable to Chapter 169, however they do apply to the general school laws and give some insight of how junior college districts have been classified by the legislature. Section 160.011 does not include junior college districts within the meaning of "public school district." They are in a separate class of their own.

Section 169.600(10) defines a "Public school district" as one under the supervision of a "board of directors or board of education." Junior college districts are governed by a "board of trustees." Section 178.820, RSMo. Supp. 1965.

Upon reading Section 169.600(4), one is inclined to think of the Non-Teacher School Employee Retirement System as complementary to the State Public School Retirement System (Sections 169.010 - 169.130, RSMo 1959). However, a close comparison reveals this not to be wholly accurate.

The teacher retirement system includes teachers in public elementary and secondary schools. Comparably, the non-teacher system includes non-teachers in such schools. However, there the similarity ends. The teacher's system includes certificated personnel of state colleges. The non-teacher system, however, does not include employees of the state colleges.

We note that Section 178.770, RSMo. Supp. 1965, provides that junior college districts shall "possess the same corporate powers as common and six-director school districts in this state, other than urban districts. . . ." However, we are not of the opinion that this reference brings employees of the junior college districts into the non-teacher system. Section 178.770 deals with the rights and duties of the districts. Membership in the non-teacher system is a question of rights and duties of persons.

Certificated employees of junior college districts did not become members of the teacher retirement by terms of the retirement statutes, but by special provisions in the Junior College District Law. Section 178.860, RSMo. Supp. 1965.

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Since the legislature used express provisions to include certificated employees of junior college districts in the teacher retirement system, the absences of such express provision for non-teacher employees indicates an intent not to include them in the non-teacher retirement system.

Based upon the foregoing statutory provisions, we are of the opinion that the legislature did not intend to include the non-teaching employees of junior college districts as members of the Non-Teacher School Employee Retirement System.

CONCLUSION

Therefore, it is the opinion of this office that employees of junior college districts (Section 178.770 - 178.890, RSMo. Supp. 1965, are not "employees" within the meaning of Section 169.600(4), RSMo. Supp. 1965, and that junior college districts are not districts within the meaning of Section 169.600(10). Hence, employees of the junior college districts are not members of the Non-Teacher School Employee Retirement System (Sections 169.600 - 169.710, RSMo. Supp. 1965.

The foregoing opinion which I hereby approve was prepared by my assistant, Louis C. DeFeo, Jr.

Yours very truly,

  
NORMAN H. ANDERSON  
Attorney General