

JUNIOR COLLEGE DISTRICTS: (1) A junior college district has  
ADULT EDUCATION: the power to provide adult basic  
SCHOOLS: education for residents without re-  
COOPERATIVE AGREEMENTS: gard to age; (2) Junior college  
FEDERAL GOVERNMENT: districts are authorized to provide  
adult education gratuitously out of  
revenues derived by the school dis-

trict from sources other than those described in Article IX, Section 3, of the State Constitution, and only with revenues which are not required for the establishing and maintaining of free public schools for persons between the ages of 6 and 20 years; (3) Junior college districts can contact and cooperate with the Federal Government and provide a local matching share in cash for adult basic education programs under the Economic Opportunity Act of 1964; (4) A junior college district may accept donations of money which are given to provide for the financing of an adult basic education program.

OPINION NO. 239

April 26, 1966

Honorable Warren E. Hearnes  
Governor of Missouri  
Executive Office  
Jefferson City, Missouri



Dear Governor Hearnes:

This opinion is issued in response to your request dated March 9, 1966. Your letter sets forth four questions regarding the power of junior college districts to participate in adult basic education programs under the Economic Opportunity Act of 1964. Your letter states as follows:

"Section 212 of the Economic Opportunity Act of 1964 as amended provides for the availability of federal monies on a 90-10 matching basis for local school districts to provide an Adult Basic Education Program.

"There seems to be a question of interpretation of state law on whether these funds can be legally spent by junior college districts. Therefore, I request that an Attorney General's Opinion be rendered concerning the following questions:

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1. Can a junior college district provide gratuitous basic education for those over 21, provided that no state funds specified in Section 3, Article IX of the Constitution of the State of Missouri are used?
2. In federally financed adult education programs which require a local matching share of 10% cash, such as those authorized under Title IIB of the Economic Opportunity Act of 1964 (Section 212), may a local junior college district provide a matching amount in cash?
3. Can the matching amount referred to in question number 2 be provided by a municipality or a private party if it is turned over to the local junior college district for that purpose?
4. If the above can be answered in the affirmative, can a junior college district provide basic education for adults without a high school education?"

Adult basic education is described in Section 212, of the Economic Opportunity Act of 1964, Public Law 88-452 as follows:

"It is the purpose of this part to initiate programs of instruction for individuals who have attained age eighteen and whose inability to read and write the English language constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability, so as to help eliminate such inability and raise the level of education of such individuals with a view to making them less likely to become dependent on others, improving their ability to benefit from occupational training and otherwise increasing their opportunities for more productive and profitable employment, and making them better able to meet their adult responsibilities."

The Federal Government will provide grants covering 90% of the cost of these programs. Section 216(b), Public Law 88-452, as amended.

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I.

Your first and fourth questions will be considered together:

Junior college districts are provided for under Sections 178.770 to 178.890, RSMo. Supp. 1965.

Section 178.770(2), provides:

"2. When a district is organized, it shall be a body corporate and a subdivision of the state of Missouri and shall be known as 'The Junior College District of ....., Missouri' and, in that name, may sue and be sued, levy and collect taxes within the limitations of sections 178.770 to 178.890, issue bonds and possess the same corporate powers as common and six-director school districts in this state, other than urban districts, except as herein otherwise provided."

Since this section provides that junior college districts shall have the same corporate powers as common and six-director school districts, we shall first determine whether or not a common or six-director school district has the power to provide gratuitous adult basic education to those over 21.

Recently, upon your inquiry, this office officially ruled that the power of a school district to provide for the education of all residents without regard to ages is necessarily implied in the statutes creating school districts (Opinion No. 100, Hearnes, 1-18-66, copy enclosed).

Thus, a public school district has the power to provide for the education of all residents. This power includes the providing of adult basic education for those over age 21.

Article IX, Section 1(b), Missouri Constitution 1945, provides, "Adult education may be provided from funds other than ordinary school revenues."

Section 171.091, RSMo. Supp. 1956, provides:

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"The school board of any school district in this state may provide for the gratuitous education of persons between five and six and over twenty years of age, resident in the school district. The gratuitous education, however, shall be provided only out of revenues derived by the school district from sources other than those described in section 3, article IX, of the constitution of this state, and only with revenues which are not required for the establishing and maintaining of free public schools in the school district for the gratuitous instruction of persons between the ages of six and twenty years."

Section 171.091, expressly authorizes public school districts to provide such services gratuitously except out of certain revenues therein mentioned.

As provided by Section 178.770, junior college districts have these same powers as common and six-director school districts unless these powers are taken away by some provision of the junior college district law. Thus, we shall turn to a further consideration of the junior college district statutes.

Section 178.780(2), provides:

"The state board of education shall:

(1) Establish the role of the two-year college in the state; \* \* \* "

Pursuant to this statutory provision the State Board of Education has described the role of the public junior college in its publication, "Public Junior Colleges in Missouri", as follows:

#### "THE ROLE OF THE PUBLIC JUNIOR COLLEGE

"The public junior college is defined as follows:

"A public educational institution offering instruction, beyond a four-year standard high school course, in programs of two years duration. Primarily, these programs are at the collegiate level and qualify for appropriate accreditation, but other types of courses for youth and adults may be provided to meet local needs. The curriculum may be specialized or comprehensive in scope and character depending on the needs and desires of the community

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served. It may offer for college credit transfer courses or terminal courses, or both. It may specialize in the liberal arts and sciences type programs, or the technical institute type programs, or it may be a comprehensive type institution offering a wide range of programs.

"The junior college district is the basic governmental unit for control, financial support and source of students.

"The primary objectives of the junior college shall be:

1. To make two-year college education available to able students in their home environment;
2. To provide regular full-time students with diversified programs of studies leading to appropriately varied educational and vocational goals, including transfer to other institutions;
3. To provide part-time students with diversified programs of studies leading to appropriately varied educational and vocational goals, including transfer to other institutions;
4. To provide effective programs of scholastic, vocational and personal guidance and flexibility of transfer among programs so that the students may have the opportunity to develop their potentialities to the utmost;
5. To provide for local as well as state and national needs appropriate for this type of institution;
6. To supplement educational opportunities now available in the State."

As manifest by this declaration of the State Board of Education, although the public junior college primarily is to provide collegiate level education, it is further the role of the junior

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college to provide "other types of courses for youth and adults [which] meet local needs."

Another of the objectives of junior colleges is to provide vocational and terminal technical courses. Certainly an ability to read and write the English language is a fundamental vocational necessity.

Section 178.850, provides:

"A junior college district organized under sections 178.770 to 178.890 shall provide instruction, classes, school or schools for pupils resident within the junior college district who have completed an approved high school course. \* \* \* " (Emphasis added.)

We are of the opinion that this section in no way derogates the power of a junior college district to provide education to those not having completed an approved high school course. As is seen in Section 212, of Public Law 88-452, the adult basic education programs would include one who has completed high school. Presumably, such person would have the ability to read and write the English language.

The purpose of Section 178.850 is to prescribe which persons a junior college district has a duty to provide the instruction. Note that the above quoted provision of that statute uses the mandatory verb "shall." It would follow from this provision that junior college districts do not have a duty to instruct a resident who has not completed high school; however, it does not follow that junior college districts do not have the power to provide, at their discretion, instruction to those not having completed high school.

Therefore, we are of the opinion that a junior college district has the power to provide adult basic education courses to those who have not (or have) completed an approved high school course; and further, that such services may be provided gratuitously out of revenues other than those excepted by Section 171.091.

## II.

Your second question notes that under the Federal law a local matching share of 10% cash is required. You ask,

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"may a local junior college district provide a matching amount in cash?"

Having concluded above that a junior college district could provide an adult basic education program gratuitously, 100% out of its own revenue (other than those excepted by Section 171.091), it necessarily follows that a junior college district may pay 10% of the cost of a program operated in cooperation with the Federal Government.

This office ruled in Opinion 100, supra, that school districts have the power to contract and cooperate with the Federal Government. Section 70.220, RSMo 1959. Article VI, Section 16, Missouri Constitution 1945. Junior college districts also have this power.

### III.

Your third question is: Can the matching 10% be provided by a municipality or a private party if turned over to the local junior college district for that purpose?

Section 165.011, RSMo. Supp. 1965, provides:

" \* \* \* Money donated to the school districts shall be placed to the credit of the fund where it can be expended to meet the purpose for which it was donated and accepted. \* \* \*"

By reference this statute also applies to junior college districts, Section 178.770.

Therefore, a junior college district has the power to accept a gift of money and to expend it for the purpose for which it was donated.

Whether or not a municipality or other political subdivision has the power to make such a grant will depend, of course, on the law relevant to the particular municipality or other political subdivision. We make no ruling whatsoever on that question here.

### CONCLUSION

Therefore, it is the opinion of this office that:

1. A junior college district has the power to provide adult basic education for residents without regard to age;

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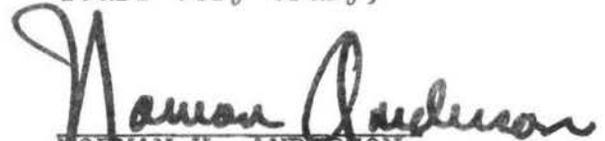
2. Junior college districts are authorized to provide adult education gratuitously out of revenues derived by the school district from sources other than those described in Article IX, Section 3, of the State Constitution, and only with revenues which are not required for the establishing and maintaining of free public schools for persons between the ages of 6 and 20 years;

3. Junior college districts can contract and cooperate with the Federal Government and provide a local matching share in cash for adult basic education programs under the Economic Opportunity Act of 1964;

4. A junior college district may accept donations of money which are given to provide for the financing of an adult basic education program.

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

Yours very truly,



NORMAN H. ANDERSON  
Attorney General

LCD:df  
Enclosure: Opinion No. 100,  
Hearnes, 1/18/66.