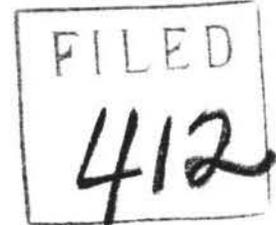


GENERAL ASSEMBLY: Article III, Section 12, Missouri Constitu-
TEACHERS: tion 1945, prohibits teachers and other
SCHOOLS: employees of (1) a junior college operated
STATE UNIVERSITY: by a public school district, (2) a junior
JUNIOR COLLEGES: college district, or (3) the state university
from holding the office of state senator or
representative.

OPINION NO. 412

October 25, 1966

Honorable John A. Grellner
State Representative
Ninth District, St. Louis County
7446 Richmond
Maplewood, Missouri 63143



Dear Representative Grellner:

This opinion is issued in response to your request for an official ruling on the question of whether or not a member of the general assembly can lawfully, at the same time, be a teacher of a junior college district or of the University of Missouri or its branches.

Article III, Section 12, Missouri Constitution 1945, provides:

"No person holding any lucrative office or employment under the United States, this state or any municipality thereof shall hold the office of senator or representative. When any senator or representative accepts any office or employment under the United States, this state or any municipality thereof, his office shall thereby be vacated and he shall thereafter perform no duty and receive no salary as senator or representative. During the term for which he was elected no senator or representative shall accept any appointive office or employment under this state which is created or the emoluments of which are increased during such term. This section shall not apply to members of the organized militia, of the reserve corps and of school boards and notaries public."

This office has previously considered this constitutional provision and ruled that a teacher employed by a public school district may not hold legislative office. Opinion No. 365,

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Michaelson, 9-9-63. Opinion No. 365 was recently reconsidered at length by this office. Enclosed is a copy of Opinion No. 16, Proffer, 2-25-66.

There are two forms of junior colleges existing under the laws of this state. Any public school district with a fully accredited high school may provide for two-year college courses with the approval of the State Board of Education. Section 178.370, RSMo Supp. 1965. Teachers in junior colleges operated by public school districts are clearly within our ruling as expressed in Opinion No. 16, supra.

Junior colleges may also be operated by a special junior college district organized for that purpose. Sections 178.770 et seq., RSMo Supp. 1965. Under Section 178.770, a junior college district is a body corporate and a subdivision of the State of Missouri. Based on the authorities cited in Opinion No. 16, to Proffer, we are of the opinion that junior college districts are municipalities within the meaning of Article III, Section 12, of the Constitution.

Therefore teachers and other employees of junior college districts cannot hold the office of state senator or representative.

You further inquire as to employees of the state university and its branches. The State Constitution, Article IX, Section 9(b), obligates the general assembly to adequately maintain the state university. The state university exists under authority of this state. Teachers and other employees are paid out of state-appropriated and other public funds.

We note that the university is a corporate body. Section 172.020, RSMo 1959. Therefore, it can be said that employees of the university are not directly employees of the state. However, as we noted in Opinion No. 16, the phrase "employment under . . . this state" has a broader meaning than the phrase "employment of this state."

Since employment with the state university is juridically and financially created and maintained by the state, we are of the opinion that teachers and other employees of the state university hold an "employment under . . . this state" within the meaning of Article III, Section 12, of the State Constitution.

Honorable John A. Grellner

CONCLUSION

Therefore it is the opinion of this office that Article III, Section 12, Missouri Constitution 1945, prohibits teachers and other employees of (1) a junior college operated by a public school district, (2) a junior college district, or (3) the state university from holding the office of state senator or representative.

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

Yours very truly,


NORMAN H. ANDERSON
Attorney General

Enclosure: Opinion No. 16,
Proffer, 2-25-66.