

FEDERAL STATE AGREEMENTS: Review and certification of State Plan
STATE BOARD OF EDUCATION: for Attracting and Qualifying Teachers
HIGHER EDUCATION ACT OF 1965: to Meet Critical Teacher Shortages under
Part B, Subpart 2 of the Education Pro-
fessions Development Act, Title V Higher Education Act of 1965, as
amended by P.L. 90-35.

December 23, 1968



Honorable Hubert Wheeler
Commissioner of Education
Department of Education
Jefferson Building
Jefferson City, Missouri 65101

Opinion Letter
No. 447-68

Dear Commissioner Wheeler:

Per your request, we have reviewed The State Plan for Attracting and Qualifying Teachers to Meet Critical Teacher Shortages under Part B, Subpart 2 of the Education Professions Development Act (Title V of the Higher Education Act of 1965 as amended by P.L. 90-35). Our review has considered the applicable federal law and the HEW draft guideline (Revised 5/1/68). We are informed that final federal guidelines and regulations are not available for us to consider in connection with this review. We have further considered Article IX, Section 2(a), Missouri Constitution, Section 161.092 and Chapter 168, RSMo Supp. 1967 and other state statutes.

We assume that a resolution of the State Board of Education has been adopted authorizing the Commissioner of Education to submit the present plan. If this has not been done, it should, of course, be immediately taken care of.

Formal citation of the Missouri Revised Statutes in the present draft of the Plan is incorrect. The Plan draft refers to the 1965 Supplement; whereas, the most current supplement is the 1967 Supplement. Statutory sections in the supplement should be referred to as "RSMo Supp. 1967". In this connection, note Paragraphs 1.3, 5.21 and 6.11(b) of the Plan.

Regarding the legal authority of the State Board of Education, Paragraph 1.3 of the Plan: The Board's authority lies in Article IX, Section 2(a) of the Missouri Constitution and Chapter 161, RSMo Supp. 1967, which has been cited. Section 168.021, RSMo Supp. may also be noted since it deals with the Board's authority to certify teachers. Sections 178.430 and 178.570, RSMo Supp. 1967, are relevant only to vocational education. They are not authority for submitting the present plan. These sections accordingly should be removed from the Plan draft.

Honorable Hubert Wheeler

We note that Paragraphs 6.1, 6.2, 6.3 and 6.5 deal with responsibilities of the Federal Commissioner of Education. These paragraphs do not appear appropriate as part of the State Plan. We note that the draft Federal Guidelines are not clear as to this section and suggest that further inquiry be made of the Office of Education as to the appropriate drafting of this section.

We direct your attention to Paragraph 6.7(a). This paragraph deals with the retention of records. As it is presently written, if the federal government failed to notify the State Department of Education that the records were no longer needed for administrative review as provided in Subparagraph (2), the Department would be obligated to retain these records forever. We assume that it is the intention of the Federal Office of Education that records not be destroyed at the end of five years which are in the process of administrative review. However, in order that the State Department might clearly know its responsibilities in the matter, we recommend that these paragraphs be clarified.

Based on the foregoing authorities and subject to the above mentioned, we hereby certify that the Missouri State Board of Education has authority under state law to submit and administer the instant program and that all the provisions of the Plan are consistent with state law.

This letter opinion constitutes our official certification of the State Plan and should be inserted in an appropriate place in each copy.

Yours very truly,

NORMAN H. ANDERSON
Attorney General

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