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OFFICES OF THE
ATTORNEY GENERAL OF MISSOURI
JEFFERSON CITY

September 16, 1974

OPINION LETTER NO. 292

Honorable Larry R. Marshall
State Senator, 19th District
32 North 8th Street
Columbia, Missouri 65201

Dear Senator Marshall:

This letter is in response to your question asking:

"On July 1, 1974 Reorganization transferred the employees of the Missouri Crippled Children's Services from the University of Missouri to the Department of Social Services. As employees of the University they could qualify for a tax sheltered annuity. The Department of Social Services does not meet this qualification. Employees, especially those with long tenure could lose \$60.00 - \$70.00 per month because of the transfer. Is there anything that can be done to prevent this?"

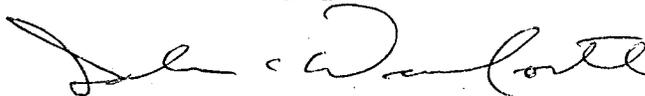
It is our understanding that since the right to tax sheltered annuities is provided under federal law the matter depends upon the provisions in the federal statutes.

The University of Missouri falls within the federal tax statutes as an exempt educational institution. However, employees of the state generally, including those within the Department of Social Services, do not have the benefit of the annuity exemptions. See, Title 26, U.S.C.A. §403(b).

Honorable Larry R. Marshall

In the absence of a change in the federal law, it appears the only way the state legislature can bring such state employees within the sheltered annuities of the federal tax laws is to transfer such employees to educational institutions which qualify.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John C. Danforth".

JOHN C. DANFORTH
Attorney General