

December 1, 1975

OPINION LETTER NO. 226  
Answer by Letter - Iverson

Ms. Virginia G. Young  
Chairman, Coordinating Board  
for Higher Education  
600 Clark Avenue  
Jefferson City, Missouri 65101



Dear Ms. Young:

This is in response to your opinion request in which you ask the following questions:

"Is the Commissioner of Higher Education the director of the Department of Higher Education within the meaning of Section 1.6(3) of the Omnibus Reorganization Act of 1974?"

"If that question is answered affirmatively, is the Coordinating Board for Higher Education authorized, as head of the Department of Higher Education, to set the annual salary for the Commissioner of Higher Education within the meaning of Section 1.6(7) of said Act?"

The Department of Higher Education and the Coordinating Board for Higher Education were created under the provisions of Sections 12 and 52 of Article IV of the Missouri Constitution and Sections 1.5, 6.1 and 6.2 of Senate Bill No. 1 of the 77th General Assembly, the Omnibus Reorganization Act of 1974. Section 6.2 of Senate Bill No. 1, provides that all powers, duties, personnel and property of the former Commission on Higher Education contained in Chapter 173 of the Missouri statutes be transferred by a Type 1 transfer to the Coordinating Board. In addition, Section 6.2 of Senate Bill No. 1 provides that ". . . the coordinating board shall be the head of the department."

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When the "head of the department" is a commission or board, Section 1.6(3) of Senate Bill No. 1 provides:

". . . it shall appoint a director of the department unless otherwise provided by this act and may delegate such duties, powers and authority to the director of the department as it deems necessary to fulfill the duties and obligations of the department. Such director shall serve at the pleasure of the head of the department and shall have the title of office provided herein."

Section 6.2 of Senate Bill No. 1 provides that the Coordinating Board for Higher Education shall appoint a commissioner as the chief administrative officer for the board. It is the opinion of this office that the Commissioner of Higher Education is the "chief administrative officer" of the Department of Higher Education designated in Section 1.6(3) of Senate Bill No. 1. Therefore, we answer affirmatively your first question as to whether the Commissioner of Higher Education is the "director" of the Department of Higher Education.

You ask next whether the Coordinating Board for Higher Education, as head of the department, is authorized to set the annual salary for the Commissioner of Higher Education within the meaning of Section 1.6(7) of Senate Bill No. 1, which provides as follows:

"The director of each department, other than those directors appointed by the heads of departments authorized to set salaries of directors, shall receive an annual salary of thirty thousand dollars payable in twelve equal monthly installments."  
(Emphasis supplied).

Section 1.6(7) requires that the director of the department receive an annual salary of thirty thousand dollars, unless the "head of the department" is authorized to set the salary of its director. The answer to your second question, therefore, depends upon whether the Missouri Constitution or statutes confer upon the Coordinating Board for Higher Education the authority to set the salary of its director.

Nothing contained in Article IV, Section 52 of the Missouri Constitution, Chapter 173, RSMo, or Section 6 of Senate Bill No. 1, authorizes the Coordinating Board for Higher Education to set the salary of the Commissioner. Because the Coordinating Board for

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Higher Education is not one of the "heads of departments authorized to set the salary of its director," Section 1.6(7) requires that the Commissioner of Higher Education be paid a salary of thirty thousand dollars (\$30,000).

The Commissioner of Higher Education is the director of the Department of Higher Education within the meaning of Section 1.6(3) of the Omnibus Reorganization Act of 1974. The Coordinating Board for Higher Education is not authorized to set the salary of the Commissioner of Higher Education. Section 1.6(7) of the Omnibus Reorganization Act of 1974 requires, therefore, that the Commissioner be paid an annual salary of thirty thousand dollars (\$30,000).

Very truly yours,

JOHN C. DANFORTH  
Attorney General